

ELEMENTARY AND SECONDARY EDUCATION

CHAPTER 126

HOUSE BILL NO. 1049

(Legislative Management)
(Tribal and State Relations Committee)

AN ACT to provide for a superintendent of public instruction study; and to provide for reports to the legislative management.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. INDIAN EDUCATION ISSUES STUDIED BY SUPERINTENDENT OF PUBLIC INSTRUCTION - REPORTS TO THE LEGISLATIVE MANAGEMENT.

Between July 1, 2011, and July 1, 2013, the superintendent of public instruction shall conduct a study of Indian education issues to develop criteria for grants to low-performing schools. In conducting this study, the superintendent of public instruction shall determine:

1. The extent to which governance and collaborative models, including agreements with tribal governments, the bureau of Indian education, and the state, have on improving student achievement;
2. Whether success models are available and what makes these models effective; and
3. Whether federal, state, or local barriers exist that prevent schools and students from performing at high rates of student achievement.

The superintendent of public instruction may utilize a consultant in conducting this study. The superintendent of public instruction shall report periodically to a legislative management interim committee on the study conducted under this section.

Approved April 19, 2011
Filed April 20, 2011

CHAPTER 127

HOUSE BILL NO. 1214

(Representatives Skarphol, R. Kelsch)
(Senators Grindberg, Wardner, Robinson)

AN ACT to create and enact sections 15.1-02-18.1 and 15.1-02-18.2 of the North Dakota Century Code, relating to the statewide longitudinal data system and the mandatory provision of information; to amend and reenact section 15.1-02-18, subsection 6 of section 23-02.1-27, and section 52-01-03 of the North Dakota Century Code, relating to the statewide longitudinal data system and to the disclosure of records; and to repeal section 44-04-18.14 of the North Dakota Century Code, relating to the followup information on North Dakota education and training system.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-02-18 of the North Dakota Century Code is amended and reenacted as follows:

15.1-02-18. Statewide longitudinal data system committee - Membership - Powers and duties - Report to interim committee - Continuing appropriation.

1. The statewide longitudinal data system committee consists of:
 - a. The chancellor of the board of higher education or the chancellor's designee-;
 - b. The superintendent of public instruction or superintendent of public instruction's designee-;
 - c. The chief information officer or chief information officer's designee-;
 - d. The director of the department of career and technical education or the director's designee-;
 - e. The director of job service North Dakota or the director's designee-;
 - f. The commissioner of commerce or the commissioner's designee-;
 - g. The director of the department of human services or the director's designee-;
 - h. The director of the North Dakota educational technology council-;
 - i. The director of the North Dakota council of educational leaders or the director's designee-;
 - j. The director of the North Dakota workforce development council or the director's designee-; and

- k. Two members of the legislative assembly appointed by the chairman of the legislative management.
2. The governor shall appoint the ~~chair~~chairman of the committee.
3. The committee may appoint ~~advisory~~additional committees ~~that would~~to serve ~~the committee~~ in an advisory capacity ~~to the committee~~.
- ~~3.4.~~ The committee shall manage a longitudinal data system ~~which~~that:
 - a. Provides for the dissemination of management information to stakeholders and partners of state education, training, and employment systems; and
 - b. Uses data from educational and workforce systems as central sources of longitudinal data.
4. ~~The information technology department, at the direction of the committee, shall maintain a statewide longitudinal data system among education, workforce, and training entities. The department and the committee may, subject to federal and state privacy laws, enter interagency agreements, including agreements designating authorized representatives of the educational agencies participating in the system pursuant to the Family Educational Rights and Privacy Act (FERPA) [20 U.S.C. 1232g; 34 CFR 99].~~
5. The committee shall set policy and adopt rules relating to access to and the collection, storage, and sharing of information and the systems necessary to perform those functions, subject to applicable federal and state privacy laws and interagency agreements and restrictions relating to confidential information required to conform to applicable federal and state privacy laws. The committee shall provide operational oversight for information sharing activities and make recommendations for and provide oversight of information sharing budgets. The committee may authorize studies to benefit and improve workforce training and education.
6. The committee shall provide a report to the information technology committee, interim committee on education issues, and interim committee on economic development on the status of the statewide longitudinal data system. The report must include recommendations for further development, cost proposals, proposals for legislation, and data sharing governance.
7. The committee may solicit and receive moneys from public and private sources and those funds are appropriated on a continuing basis for the support of the longitudinal data system.
8. ~~The information technology department shall provide staff and other necessary support to the committee.~~

SECTION 2. Section 15.1-02-18.1 of the North Dakota Century Code is created and enacted as follows:

15.1-02-18.1. Statewide longitudinal data system - Information technology department - Powers and duties.

1. The information technology department, at the direction of the statewide longitudinal data system committee, shall maintain a statewide longitudinal data system among education, workforce, and training entities.

2. The information technology department and the statewide longitudinal data system committee may, subject to federal and state privacy laws, enter interagency agreements, including agreements designating authorized representatives of the educational agencies participating in the system pursuant to the Family Educational Rights and Privacy Act [20 U.S.C. 1232g; 34 CFR 99].
3. The information technology department shall provide staff and other necessary support to the statewide longitudinal data system committee.

SECTION 3. Section 15.1-02-18.2 of the North Dakota Century Code is created and enacted as follows:

15.1-02-18.2. State agencies - Mandatory provision of information - Confidentiality.

1. The information technology department may request from any state agency:
 - a. All information required by 20 U.S.C. 9871(e)(2)(D); and
 - b. Any other educational information the statewide longitudinal data system committee determines is required for a longitudinal data system to comply with state or federal law.
2. Subject to applicable restrictions on the use and disclosure of confidential information required to comply with federal and state privacy laws, any state agency receiving a request for information under subsection 1 shall provide the information at the time and in the manner required by the information technology department.

⁴⁹ **SECTION 4. AMENDMENT.** Subsection 6 of section 23-02.1-27 of the North Dakota Century Code is amended and reenacted as follows:

6. The state department of health may grant limited access to birth and death information to the department of human services and the department of information technology necessary for the purpose of completing its official duties.

SECTION 5. AMENDMENT. Section 52-01-03 of the North Dakota Century Code is amended and reenacted as follows:

52-01-03. Disclosure of information.

1. Except as otherwise provided in this section, information obtained from any employing unit or individual pursuant to the administration of the North Dakota unemployment compensation law and determinations as to the benefit rights of any individual must be held confidential and may not be disclosed or be open to public inspection in any manner revealing the individual's or employing unit's identity. Any claimant or claimant's legal representative must be supplied with information from the records of the unemployment insurance division, to the extent necessary for the proper presentation of the claimant's claim in any proceeding under the North Dakota unemployment compensation law with respect to the claim.

⁴⁹ Section 23-02.1-27 was also amended by section 2 of House Bill No. 1084, chapter 185.

2. Subject to restrictions as the bureau by rule may prescribe, the information may be made available to any agency of this or any other state, or any federal agency, charged with the administration of any unemployment compensation law or the maintenance of a system of public employment offices, or the bureau of internal revenue of the United States department of the treasury, and information obtained in connection with the administration of the employment service may be made available to persons or agencies for purposes appropriate to the operation of a public employment service. Upon a request, the bureau shall furnish to any agency of the United States charged with the administration of public works or assistance through public employment, and may furnish to any state agency similarly charged, the name, address, ordinary occupation, and employment status of each recipient of benefits and the recipient's rights to further benefits under the North Dakota unemployment compensation law. The bureau may request the comptroller of the currency of the United States to cause an examination of the correctness of any return or report of any national banking association, rendered pursuant to the North Dakota unemployment compensation law, and in connection with the request, may transmit any report or return to the comptroller of the currency of the United States as provided in subsection c of section 3305 of the federal Internal Revenue Code. The bureau shall request and exchange information for purposes of income and eligibility verification to meet the requirements of section 1137 of the Social Security Act. Job service North Dakota may enter into memoranda of understanding with the United States census bureau to furnish unemployment insurance data to the census bureau and for sharing of information with job service North Dakota.
3. Job service North Dakota may provide workforce safety and insurance, the labor commissioner, the driver's license division of the department of transportation, the department of human services, the department of commerce, the state tax commissioner, and the ~~followup information on North Dakota education and training~~ information technology department for purposes of the statewide longitudinal data system with information obtained pursuant to the administration of the unemployment insurance program, and may enter into interagency agreements with those entities for the exchange of information that will enhance the administration of the unemployment insurance program. Any information furnished pursuant to this subsection or pursuant to interagency agreements authorized by this subsection is to be used only for governmental purposes ~~only~~.
4. The bureau may provide any state agency or a private entity with the names and addresses of employing units for the purpose of jointly publishing or distributing publications or other information as provided in section 54-06-04.3. Any information so provided may only be used for the purpose of jointly publishing or distributing publications or other information as provided in section 54-06-04.3.
5. Whenever the bureau obtains information on the activities of a contractor doing business in this state of which officials of the secretary of state, workforce safety and insurance, or the state tax commissioner may be unaware and that may be relevant to duties of those officials, the bureau shall provide any relevant information to those officials for the purpose of administering their duties.
6. The bureau shall request and exchange information as required of it under federal law with any specified governmental agencies. Any information so

provided may be used only for the purpose of administering the duties of such governmental agencies.

SECTION 6. REPEAL. Section 44-04-18.14 of the North Dakota Century Code is repealed.

Approved April 25, 2011
Filed April 25, 2011

CHAPTER 128

SENATE BILL NO. 2311

(Senators G. Lee, Luick)
(Representatives L. Meier, Rust)

AN ACT to create and enact a new section to chapter 15.1-02 of the North Dakota Century Code, relating to the North Dakota teacher of the year award.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 15.1-02 of the North Dakota Century Code is created and enacted as follows:

North Dakota teacher of the year award - Selection - Announcement.

1. Annually, the superintendent of public instruction shall accept nominations for the North Dakota teacher of the year award.
2. The superintendent of public instruction shall develop and publish the criteria by which all nominees must be considered and shall appoint an eight-member committee to review the nominations and select the North Dakota teacher of the year. The committee must consist of:
 - a. A former North Dakota teacher of the year award recipient;
 - b. A representative of the North Dakota council of educational leaders;
 - c. A representative of the North Dakota department of career and technical education;
 - d. A representative of the North Dakota department of public instruction;
 - e. A representative of the North Dakota education association;
 - f. A representative of the North Dakota school boards association; and
 - g. A representative of nonpublic schools in this state.
3. By September thirtieth of each year, the governor and the superintendent of public instruction shall jointly announce the award recipient and serve as the exclusive hosts of a ceremony and reception honoring the teacher of the year. The ceremony and reception must take place in the memorial hall of the state capitol or, if requested by the award recipient, at a location in the municipality within which the recipient resides or works.

Approved April 27, 2011
Filed April 27, 2011

CHAPTER 129

HOUSE BILL NO. 1248

(Representatives Koppelman, Karls, Sanford, Delmore)
(Senators Wardner, Nelson)

AN ACT to create and enact chapter 15.1-04.1 of the North Dakota Century Code, relating to entry into the compact on educational opportunity for military children; to amend and reenact sections 15.1-06-01 and 15.1-21-02.1 and subsection 1 of section 15.1-29-13 of the North Dakota Century Code, relating to the age of school admission, the issuance of high school diplomas, and the charging of tuition; to provide for a report; to provide a funding source; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Chapter 15.1-04.1 of the North Dakota Century Code is created and enacted as follows:

15.1-04.1-01. 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.

15.1-04.1-02. 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.

15.1-04.1-03. 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.

15.1-04.1-04. 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.

⁵⁰ **SECTION 2. AMENDMENT.** Section 15.1-06-01 of the North Dakota Century Code is amended and reenacted as follows:

15.1-06-01. 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 academic, 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.

⁵¹ **SECTION 3. AMENDMENT.** Section 15.1-21-02.1 of the North Dakota Century Code is amended and reenacted as follows:

⁵⁰ Section 15.1-06-01 was also amended by section 1 of House Bill No. 1436, chapter 130.

⁵¹ Section 15.1-21-02.1 was also amended by section 2 of Senate Bill No. 2317, chapter 137, and section 9 of Senate Bill No. 2150, chapter 147.

15.1-21-02.1. High school graduation - Diploma requirements.

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 the following twenty-two units of high school coursework:

1. Four units of English language arts from a sequence that includes literature, composition, and speech;
2. Three units of mathematics;
3. 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. 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. One unit of physical education; or
 - b. One-half unit of physical education and one-half unit of health;
6. Three units of:
 - a. Foreign languages;
 - b. Native American languages;
 - c. Fine arts; or
 - d. Career and technical education courses; and
7. Any five additional units.

SECTION 4. AMENDMENT. Subsection 1 of section 15.1-29-13 of the North Dakota Century Code is amended and reenacted as follows:

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.

SECTION 5.

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.

SECTION 6. REPORT TO LEGISLATIVE MANAGEMENT. Before July 1, 2012, representatives of the Grand Forks school district, the Minot school district, the Grand Forks air force base school district, and the Minot air force base school district shall provide, singly or jointly, a report to the legislative management regarding the state's participation in the compact on educational opportunity for military children.

SECTION 7. EXPIRATION DATE. This Act is effective through July 31, 2013, and after that date is ineffective.

Approved May 17, 2011
Filed May 17, 2011

CHAPTER 130

HOUSE BILL NO. 1436

(Representatives Hawken, Maragos, Delmore)
(Senators Flakoll, J. Lee, Nelson)

AN ACT to amend and reenact sections 15.1-06-01 and 15.1-22-02 of the North Dakota Century Code, relating to enrollment in kindergarten.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁵² **SECTION 1. AMENDMENT.** Section 15.1-06-01 of the North Dakota Century Code is amended and reenacted as follows:

15.1-06-01. 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.

⁵² Section 15.1-06-01 was also amended by section 2 of House Bill No. 1248, chapter 129.

⁵³ **SECTION 2. AMENDMENT.** Section 15.1-22-02 of the North Dakota Century Code is amended and reenacted as follows:

15.1-22-02. Public kindergarten - Requirements.

A school district operating a kindergarten:

1. May not employ an individual as a kindergarten teacher unless the individual is licensed to teach by the education standards and practices board or approved by the education standards and practices board.
2. Shall submit to the superintendent of public instruction and follow a developmentally appropriate curriculum.
3. Shall provide at least the equivalent of thirty full days of instruction, on a half-day or full-day basis, as determined by the school board.
4. Shall apply all municipal and state health, fire, and safety requirements to the kindergarten.
5. May not enroll a child who is not five years old before August first of the year of enrollment, unless the child will be five 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 kindergarten operator, can demonstrate superior academic; talents or abilities and social; and emotional readiness; or
 - b. The child has been enrolled in another approved kindergarten.

Approved March 28, 2011

Filed March 28, 2011

⁵³ Section 15.1-22-02 was also amended by section 19 of Senate Bill No. 2150, chapter 147.

CHAPTER 131

HOUSE BILL NO. 1029

(Legislative Management)
(Education Committee)

AN ACT to create and enact sections 15.1-06-06.1, 15.1-06-06.2, and 15.1-06-06.3 of the North Dakota Century Code, relating to school approval; to amend and reenact sections 15.1-02-11, 15.1-06-06, 15.1-13-18, 15.1-13-19, and 15.1-13-25 of the North Dakota Century Code, relating to school approval; to repeal sections 15.1-27-08 and 15.1-27-09 of the North Dakota Century Code, relating to payment reductions for unaccredited schools; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-02-11 of the North Dakota Century Code is amended and reenacted as follows:

15.1-02-11. Superintendent of public instruction - Accreditation of schools - Rules.

The superintendent of public instruction may adopt rules governing the accreditation of public and nonpublic schools. Any rule adopted under this section must incorporate measures of student achievement and bear a direct relationship to improving student achievement.

SECTION 2. AMENDMENT. Section 15.1-06-06 of the North Dakota Century Code is amended and reenacted as follows:

15.1-06-06. Approval of public and nonpublic schools.

~~Each public and nonpublic school in this state offering elementary or secondary education to students must be approved by the superintendent of public instruction. Except as otherwise provided by law, the superintendent may not approve a school unless:~~

1. In order to obtain certification that a public school is approved, the superintendent of the district in which the school is located shall submit to the superintendent of public instruction a compliance report verifying that:
 - a. Each classroom teacher is licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board;
 2. b. Each classroom teacher is teaching only in those course areas or fields for which the teacher is licensed or for which the teacher has received an exception under section 15.1-09-57;
 3. ~~The students are offered all subjects required by law;~~

- ~~4. The school is in compliance with all local and state health, fire, and safety laws; and~~
- ~~5. The school has conducted all criminal history record checks required by section 12-60-24.~~
 - c. The school meets all curricular requirements set forth in chapter 15.1-21;
 - d. The school participates in and meets the requirements of a review process that is:
 - (1) Designed to improve student achievement through a continuous cycle of improvement; and
 - (2) Approved by the superintendent of public instruction;
 - e. The school has been inspected by the state fire marshal or the state fire marshal's designee in accordance with section 15.1-06-09 and:
 - (1) Has no unremedied deficiency; or
 - (2) Has deficiencies that have been addressed in a plan of correction which was submitted to and approved by the state fire marshal or the state fire marshal's designee; and
 - f. All individuals hired after June 30, 2011, and having unsupervised contact with students at the school, have:
 - (1) Undergone a criminal history background check requested by the employing school district; or
 - (2) Undergone a criminal history background check in order to be licensed by the education standards and practices board or by any other state licensing board.
2. The compliance report required by subsection 1 must:
 - a. Be signed by the school principal and the superintendent of the school district;
 - b. Be formally approved by the board of the school district; and
 - c. Be filed with the superintendent of public instruction before five p.m. on the:
 - (1) First day of October; or
 - (2) The date of the extension provided under subsection 6.
3. On the tenth day of September and on the twenty-fifth day of September, the superintendent of public instruction shall provide to each school principal, school district superintendent, and school board member, electronic notification that the compliance report is due on the first day of October.
4. If a school's compliance report is not submitted at the time and in the manner required by subsection 2, the superintendent of public instruction shall

designate the school as unapproved. No later than thirty days after the date on which a school's compliance report is due, in accordance with subsection 2, the superintendent of public instruction shall post a notice on the department's website, indicating whether a school is approved or unapproved.

5. If a public school does not meet the approval requirements of this section, the superintendent of public instruction shall:
 - a. Notify the parents of students enrolled in the school, either directly or through the local media outlets, that the school is unapproved; and
 - b. Subtract from any state aid otherwise payable to the school district the prorated amount attributable to the students in attendance at the unapproved school for each day that the school's compliance report is not on file with the superintendent of public instruction.
6. If because of unforeseen or other extenuating circumstances a school district superintendent is unable to file a school's compliance report with the superintendent of public instruction before five p.m. on October first, the school district superintendent may request one extension from the superintendent of public instruction. The superintendent of public instruction shall grant the extension provided the request was received before five p.m. on October first. An extension under this section terminates at five p.m. on October fifteenth.
7. Upon receipt of a school's compliance report, as required by this section, the superintendent of public instruction shall certify the school as being approved. A certification of approval under this subsection expires at the conclusion of the regular school calendar.
8. If after being certified as approved a school experiences circumstances or events that would render the information contained in its compliance report inaccurate, the superintendent of the school district in which the school is located shall notify the superintendent of public instruction and work with the superintendent of public instruction to address the circumstances or events at the earliest possible time.
9. If a school district does not employ a superintendent, the duties required of a school district superintendent by this section must be performed as provided for in chapter 15.1-11.

SECTION 3. Section 15.1-06-06.1 of the North Dakota Century Code is created and enacted as follows:

15.1-06-06.1. Approval of nonpublic schools.

1. In order to obtain certification that a nonpublic school is approved, the administrator of a nonpublic school shall submit to the superintendent of public instruction a compliance report verifying that:
 - a. Each classroom teacher is licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board;

- b. Each classroom teacher is teaching only in those course areas or fields for which the teacher is licensed or for which the teacher has received an exception under section 15.1-09-57;
 - c. The school meets all curricular requirements set forth in chapter 15.1-21;
 - d. The school has been inspected by the state fire marshal or the state fire marshal's designee in accordance with section 15.1-06-10 and:
 - (1) Has no unremedied deficiency; or
 - (2) Has deficiencies that have been addressed in a plan of correction which was submitted to and approved by the state fire marshal or the state fire marshal's designee; and
 - e. All individuals hired after June 30, 2011, and having unsupervised contact with students at the school, have:
 - (1) Undergone a criminal history background check requested on behalf of the employing school; or
 - (2) Undergone a criminal history background check in order to be licensed by the education standards and practices board or by any other state licensing board.
2. The compliance report required by subsection 1 must:
 - a. Be signed by the school administrator;
 - b. Be formally approved by the governing board of the school; and
 - c. Be filed with the superintendent of public instruction before five p.m. on:
 - (1) The first day of October; or
 - (2) The date of the extension provided under subsection 5.
 3. On the tenth day of September and on the twenty-fifth day of September, the superintendent of public instruction shall provide to each school administrator and member of the governing board, electronic notification that the compliance report is due on the first day of October.
 4. If a nonpublic school's compliance report is not submitted at the time and in the manner required by subsection 2, the superintendent of public instruction shall designate the school as unapproved. No later than thirty days after the date on which a school's compliance report is due, in accordance with subsection 2, the superintendent of public instruction shall post a notice on the department's website, indicating whether a nonpublic school is approved or unapproved.
 5. If a nonpublic school does not meet the approval requirements of this section, the superintendent of public instruction shall notify the parents of students enrolled in the school, either directly or through the local media outlets, that the school is unapproved and that the parents may be in violation of the state's compulsory attendance provisions.

6. If because of unforeseen or other extenuating circumstances the administrator of a nonpublic school is unable to file the school's compliance report with the superintendent of public instruction before five p.m. on October first, the school administrator may request one extension from the superintendent of public instruction. The superintendent of public instruction shall grant the extension provided the request was received before five p.m. on October first. An extension under this section terminates at five p.m. on October fifteenth.
7. Upon receipt of a nonpublic school's compliance report, as required by this section, the superintendent of public instruction shall certify the school as being approved. A certification of approval under this subsection expires at the conclusion of the regular school calendar.
8. If after being certified as approved a nonpublic school experiences circumstances or events that would render the information contained in its compliance report inaccurate, the administrator of the nonpublic school shall notify the superintendent of public instruction and work with the superintendent of public instruction to address the circumstances or events at the earliest possible time.

SECTION 4. Section 15.1-06-06.2 of the North Dakota Century Code is created and enacted as follows:

15.1-06-06.2. Compliance report - Impossibility of timely submission.

The superintendent of public instruction may delay imposing the sanctions set forth in section 15.1-06-06 in the case of a public school and may delay imposing the sanctions set forth in section 15.1-06-06.1 in the case of a nonpublic school, until a time certain, if:

1. The required submission of a school's compliance report is an impossibility due to:
 - a. A natural disaster or act of God, including fire, earthquake, or tornado;
 - b. An unauthorized or illegal act by a third party, including terrorism, sabotage, riot, or vandalism;
 - c. Death;
 - d. A medical or personal emergency;
 - e. Operational interruption, including electrical failure, and computer hardware or software failures; or
 - f. Governmental action, including an emergency order or judicial or law enforcement action; and
2. The superintendent of public instruction determines that the report, had it been submitted, would have demonstrated compliance with the approval requirements of section 15.1-06-06 in the case of a public school and compliance with the approval requirements of section 15.1-06-06.1 in the case of a nonpublic school.

SECTION 5. Section 15.1-06-06.3 of the North Dakota Century Code is created and enacted as follows:

15.1-06-06.3. Required records - Verification of information - Site visits.

1. The superintendent of public instruction shall notify each school and school district of the records that must be maintained in order to allow the superintendent of public instruction to verify the information contained in each compliance report. The superintendent of public instruction shall establish the length of time that the records must be maintained.
2.
 - a. The superintendent of public instruction may examine the records of any public school at any time and may conduct site visits to ensure the accuracy of information provided on the compliance report. The site visits may be scheduled or unscheduled.
 - b. The superintendent of public instruction may examine the records of any nonpublic school upon request.

SECTION 6. AMENDMENT. Section 15.1-13-18 of the North Dakota Century Code is amended and reenacted as follows:

15.1-13-18. Teaching license - Presentation to business manager.

1. Before being employed to teach by a school district, an individual shall present to the school district business manager a teaching license or other evidence of approval to teach issued by the board.
2. Before being employed to teach by a nonpublic school, an individual shall present to the school business manager a teaching license or other evidence of approval to teach issued by the board.

SECTION 7. AMENDMENT. Section 15.1-13-19 of the North Dakota Century Code is amended and reenacted as follows:

15.1-13-19. Teaching license - Expiration.

Notwithstanding any other law, ~~an individual whose~~ an individual's teaching license expires within the final six weeks of a school year ~~may continue teaching under the expired license~~ district's or nonpublic school's calendar, that individual's license is deemed to be extended and in effect until the completion of the school ~~year~~ district's or nonpublic school's calendar.

SECTION 8. AMENDMENT. Section 15.1-13-25 of the North Dakota Century Code is amended and reenacted as follows:

15.1-13-25. Teaching license - Action by board - Causes.

1. After holding a public hearing in accordance with chapter 28-32, the board may issue a written warning or reprimand to the individual, suspend the individual's teaching license, or revoke the individual's teaching license if:
 - a. The individual obtained a license by means of fraud, misrepresentation, or concealment of facts.
 - b. The board becomes aware of any fact or circumstance that would have caused the board to deny licensure had the board known of the fact or circumstance at the time of initial licensure.

- c. The individual is incompetent, immoral, intemperate, or cruel.
 - d. The individual has been convicted of, has pled guilty to, or has pled nolo contendere to an offense deemed by the board to have a direct bearing upon an individual's ability to serve as a teacher or an administrator.
 - e. The board believes that the individual, having been convicted of an offense, has not been sufficiently rehabilitated under section 12.1-33-02.1.
 - f. The individual has refused to perform the duties of a teacher or an administrator.
 - g. The individual has breached a contract with a school district or nonpublic school.
 - h. The individual knowingly taught in violation of chapter 15.1-18.
 - i. The individual is an administrator in a school district ~~administrator or a nonpublic school~~ and knowingly permitted another individual to teach in violation of chapter 15.1-18.
 - j. The individual has violated this chapter or any rule adopted by the board.
2. Any action of the board taken under this section may be appealed to the district court of Burleigh County in accordance with chapter 28-32.

SECTION 9. REPEAL. Sections 15.1-27-08 and 15.1-27-09 of the North Dakota Century Code are repealed.

SECTION 10. EFFECTIVE DATE. This Act becomes effective on July 1, 2011.

SECTION 11. EMERGENCY. This Act is declared to be an emergency measure.

Approved May 9, 2011
Filed May 10, 2011

CHAPTER 132

HOUSE BILL NO. 1215

(Representatives S. Kelsh, L. Meier, Guggisberg, Mock)
(Senators Flakoll, Heckaman)

AN ACT to amend and reenact section 15.1-06-12 of the North Dakota Century Code, relating to a requirement for lockdown drills at schools.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-06-12 of the North Dakota Century Code is amended and reenacted as follows:

15.1-06-12. Emergency and disaster drills - Implementation.

Each public and nonpublic school district superintendent shall implement conduct fire, tornado, and other emergency or disaster drills, including lockdown drills.

Approved April 4, 2011

Filed April 4, 2011

CHAPTER 133

SENATE BILL NO. 2278

(Senators Nething, Erbele, Wanzek)

AN ACT to create and enact a new section to chapter 15.1-07 of the North Dakota Century Code, relating to the disclosure of student names and addresses.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

Student names and addresses - Authorized disclosure.

Notwithstanding section 44-04-18.13, and subject to any limitations on the disclosure of directory information under title 20, Code of Federal Regulations, part 99, sections 31, 33, and 37, each high school shall provide to the North Dakota university system a list of all students enrolled in grades ten and eleven as of April fifteenth of each year, together with the students' addresses and telephone numbers. The North Dakota university system shall disclose this information to each institution under the control of the state board of higher education and to each nonpublic university and college in this state.

Approved April 19, 2011

Filed April 19, 2011

CHAPTER 134

HOUSE BILL NO. 1326

(Representatives Rust, Sanford)
(Senator Heckaman)

AN ACT to amend and reenact section 15.1-09-59 of the North Dakota Century Code, relating to the maintenance of insurance by school districts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-09-59 of the North Dakota Century Code is amended and reenacted as follows:

15.1-09-59. Maintenance of insurance - Report to superintendent of public instruction.

1. ~~During the 2009-10 school year and at~~ At least once every eight~~six~~ years thereafter, each school district shall ~~obtain an appraisal of its buildings and its facilities, and an inventory of their contents~~work with its commercial property insurance carrier for the purpose of ensuring that:
 - a. All school district buildings and facilities are properly identified and accurately valued; and
 - b. The contents of all school district buildings and facilities are properly inventoried and accurately valued.
2. a. If a school district can demonstrate to the satisfaction of the superintendent of public instruction that the district completed the requirements of subsection 1 during the period beginning July 1, 2006, and ending June 30, 2011, the district's six-year requirement for identification and valuation begins on the date that the requirements were met.
 - b. If a school district cannot demonstrate to the satisfaction of the superintendent of public instruction that the district completed the requirements of subsection 1 during the period beginning July 1, 2006, and ending June 30, 2011, the district shall complete the requirements during the 2011-12 school year.
3. Annually, each school district shall review the terms of any insurance policies providing coverage for its buildings, its facilities, and their contents and ensure that there are in place the policies are sufficient to provide in full for the repair or replacement of the buildings, its facilities, and their contents, in the event of a loss.
- 3.4. Annually, the superintendent of public instruction shall verify that each school district is in compliance with the requirements of this section.

Approved March 14, 2011
Filed March 14, 2011

CHAPTER 135

HOUSE BILL NO. 1270

(Representatives Hawken, R. Kelsch, Mueller)
(Senators Fischer, Freborg, Heckaman)

AN ACT to amend and reenact sections 15.1-13-09 and 15.1-13-20 of the North Dakota Century Code, relating to the licensing of teachers from other states; and to repeal section 15.1-13-21 of the North Dakota Century Code, relating to reciprocal teaching licenses.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-13-09 of the North Dakota Century Code is amended and reenacted as follows:

15.1-13-09. Board powers.

The board may:

1. Adopt rules in accordance with chapter 28-32.
2. ~~Contract with other states for the reciprocal approval of teacher preparation programs.~~
3. Apply for and receive federal or other funds on behalf of the state for purposes related to its duties.
- 4.3. Perform any duty related to the improvement of instruction through teacher education, professional development, and continuing education programs.

SECTION 2. AMENDMENT. Section 15.1-13-20 of the North Dakota Century Code is amended and reenacted as follows:

15.1-13-20. Interim reciprocal teaching license – Period of validity Applicants licensed in other states.

1. The board shall grant ~~an interim reciprocal~~ teaching license ~~in accordance with sections 15.1-18-02 and 15.1-18-03 to an individual~~ to an applicant who holds a regular teaching license or certificate from another state, provided:
 - a. The ~~individual's~~ 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 ~~individual's~~ 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 ~~individual~~ applicant submits ~~to 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; and.~~
 - e. ~~The individual submits a plan for meeting all requirements necessary to become a licensed teacher in this state.~~
2. ~~An interim reciprocal license granted under this section is valid for two years.~~
 3. ~~The individual shall submit evidence of progress on the plan required by subsection 1 to the board prior to renewal of the interim reciprocal license.~~
 4. ~~The board may renew the interim reciprocal license for one additional two year period if the board finds that the individual has demonstrated satisfactory progress.~~
 5. ~~Notwithstanding any other law, an interim reciprocal license granted under this section is the equivalent of a teaching license granted under this chapter.~~
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.

SECTION 3. REPEAL. Section 15.1-13-21 of the North Dakota Century Code is repealed.

Approved April 26, 2011
Filed April 26, 2011

CHAPTER 136

HOUSE BILL NO. 1094

(Government and Veterans Affairs Committee)
(At the request of the Superintendent of Public Instruction)

AN ACT to amend and reenact subsection 1 of section 15.1-13-33 of the North Dakota Century Code, relating to investment of special funds in the state treasury for the purpose of funding grants for teachers to pursue national board certification.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁵⁴ **SECTION 1. AMENDMENT.** Subsection 1 of section 15.1-13-33 of the North Dakota Century Code is amended and reenacted as follows:

1. The national board certification fund is a special fund in the state treasury. The state ~~investment board~~treasurer shall invest the fund in accordance with ~~chapter 21-10~~the prudent investor rule. All interest and income received on investments are appropriated on a continuing basis to the superintendent of public instruction for the purpose of allowing the education standards and practices board to award grants to teachers pursuing national board certification.

Approved April 27, 2011
Filed April 27, 2011

⁵⁴ Section 15.1-13-33 was repealed by section 23 of Senate Bill No. 2013, chapter 39.

CHAPTER 137

SENATE BILL NO. 2317

(Senators Wardner, Kilzer, Mathern)
(Representatives Hawken, L. Meier, Nathe)

AN ACT to create and enact a new section to chapter 15.1-13 of the North Dakota Century Code, relating to the approval of theological studies instructors; and to amend and reenact section 15.1-21-02.1 of the North Dakota Century Code, relating to theological studies courses.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 15.1-13 of the North Dakota Century Code is created and enacted as follows:

Approval of theological studies instructors.

The board shall approve an individual to be an instructor of theological studies upon receipt of the application and fees required under section 15.1-13-11 and pending completion of the background check required by section 15.1-13-14, if the individual:

1. Holds a baccalaureate degree; and
2. Is recommended for approval as an instructor of theological studies by the governing board of a nonpublic school offering a theological studies course.

⁵⁵ **SECTION 2. AMENDMENT.** Section 15.1-21-02.1 of the North Dakota Century Code is amended and reenacted as follows:

15.1-21-02.1. High school graduation - Diploma requirements.

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 the following twenty-two units of high school coursework:

1. Four units of English language arts from a sequence that includes literature, composition, and speech;
2. Three units of mathematics;
3. Three units of science, including:
 - a. One unit of physical science;
 - b. One unit of biology; and

⁵⁵ Section 15.1-21-02.1 was also amended by section 3 of House Bill No. 1248, chapter 129, and section 9 of Senate Bill No. 2150, chapter 147.

- c. (1) One unit of any other science; or
(2) Two one-half units of any other science;
4. 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. One unit of physical education; or
b. One-half unit of physical education and one-half unit of health;
6. Three units of:
 - a. Foreign languages;
 - b. Native American languages;
 - c. Fine arts; or
 - d. Career and technical education courses; and
7. Any five additional units, two of which may be theological studies if taught in a nonpublic school by an approved theological studies instructor.

Approved April 26, 2011

Filed April 26, 2011

CHAPTER 138

SENATE BILL NO. 2179

(Senator Wardner)
(Representative N. Johnson)

AN ACT to amend and reenact section 15.1-16-03 of the North Dakota Century Code, relating to a per diem increase for members of the North Dakota education factfinding commission.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-16-03 of the North Dakota Century Code is amended and reenacted as follows:

15.1-16-03. Education factfinding commission - Compensation.

Each member of the commission is entitled to receive compensation at the rate of ~~ninetyone hundred ten~~ ninetyone hundred ten dollars per day and reimbursement for expenses, as provided by law for state officers, for attending commission meetings or performing duties directed by the commission.

Approved April 25, 2011
Filed April 25, 2011

CHAPTER 139

SENATE BILL NO. 2281

(Senators Berry, Flakoll, Schneider)
(Representatives R. Kelsch, Grande, Porter)

AN ACT to create and enact a new section to chapter 15.1-18.2 of the North Dakota Century Code, relating to concussion management program requirements; and to provide for a legislative management study.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 15.1-18.2 of the North Dakota Century Code is created and enacted as follows:

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. 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 from practice, training, or competition if:
 - a. The student reports any sign or symptom of a concussion, as set forth in accordance with this section;
 - b. 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. 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.
4. The concussion management program must require that any student who is removed in accordance with subsection 3 must be examined as soon as practicable by a licensed, registered, or certified health care provider whose scope of practice includes the diagnosis and treatment of concussion.
5. A student who is removed in accordance with subsection 3 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.

6. The concussion management program must require that each official, coach, and athletic trainer 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.
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.

SECTION 2. CONCUSSION MANAGEMENT PROGRAMS - LEGISLATIVE MANAGEMENT STUDY. During the 2011-12 biennium, the legislative management shall study concussion management with respect to youth athletics, including the nature, scope, and applicability of programs designed to prevent or eliminate concussions. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-third legislative assembly.

Approved April 22, 2011
Filed April 25, 2011

CHAPTER 140

HOUSE BILL NO. 1086

(Judiciary Committee)
(At the request of the Supreme Court)

AN ACT to amend and reenact section 15.1-19-13 of the North Dakota Century Code, relating to notifications regarding student use of alcohol or controlled substances.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-19-13 of the North Dakota Century Code is amended and reenacted as follows:

15.1-19-13. Alcohol or controlled substance - Use or possession by student - Notification of principal - Exception.

If a teacher knows or has reason to believe that a student is using, is in possession of, or is delivering alcohol or a controlled substance while the student is on school property, involved in a school-related activity, or in attendance at a school-sponsored event, the teacher shall notify the student's principal. The notification requirement in this section does not apply to a teacher or administrator who participates in a juvenile drug court program and receives confidential information regarding a student as a result of participation in the program. This section does not prevent a teacher or any other school employee from reporting to a law enforcement agency any violation of law occurring on school property, at a school-related activity, or at a school-sponsored event.

Approved May 9, 2011
Filed May 10, 2011

CHAPTER 141

HOUSE BILL NO. 1465

(Representatives R. Kelsch, Vigesaa, Gruchalla)
(Senators Flakoll, Wardner, Warner)

AN ACT to create and enact six new sections to chapter 15.1-19 of the North Dakota Century Code, relating to the prevention of bullying in public schools.

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:

Bullying - Definition.

As used in this Act:

1. "Bullying" means:

a. Conduct that occurs in a public school, on school district premises, in a district owned or leased schoolbus or school vehicle, or at any public school or school district sanctioned or sponsored activity or event and which:

(1) Is so severe, pervasive, or objectively offensive that it substantially interferes with the student's educational opportunities;

(2) Places the student in actual and reasonable fear of harm;

(3) Places the student in actual and reasonable fear of damage to property of the student; or

(4) Substantially disrupts the orderly operation of the public school; or

b. Conduct that is received by a student while the student is in a public school, on school district premises, in a district owned or leased schoolbus or school vehicle, or at any public school or school district sanctioned or sponsored activity or event and which:

(1) Is so severe, pervasive, or objectively offensive that it substantially interferes with the student's educational opportunities;

(2) Places the student in actual and reasonable fear of harm;

(3) Places the student in actual and reasonable fear of damage to property of the student; or

(4) Substantially disrupts the orderly operation of the public school.

2. "Conduct" includes the use of technology or other electronic media.

SECTION 2. A new section to chapter 15.1-19 of the North Dakota Century Code is created and enacted as follows:

Bullying - Prohibition by policy.

1. Before July 1, 2012, each school district shall adopt a policy providing that while at a public school, on school district premises, in a district owned or leased schoolbus or school vehicle, or at any public school or school district sanctioned or sponsored activity or event, a student may not:
 - a. Engage in bullying; or
 - b. Engage in reprisal or retaliation against:
 - (1) A victim of bullying;
 - (2) An individual who witnesses an alleged act of bullying;
 - (3) An individual who reports an alleged act of bullying; or
 - (4) An individual who provides information about an alleged act of bullying.
2. The policy required by this section must:
 - a. Include a definition of bullying that at least encompasses the conduct described in section 1 of this Act;
 - b. Establish procedures for reporting and documenting alleged acts of bullying, reprisal, or retaliation, and include procedures for anonymous reporting of such acts;
 - c. Establish procedures, including timelines, for school district personnel to follow in investigating reports of alleged bullying, reprisal, or retaliation;
 - d. Establish a schedule for the retention of any documents generated while investigating reports of alleged bullying, reprisal, or retaliation;
 - e. Set forth the disciplinary measures applicable to an individual who engaged in bullying or who engaged in reprisal or retaliation, as set forth in subsection 1;
 - f. Require the notification of law enforcement personnel if an investigation by school district personnel results in a reasonable suspicion that a crime might have occurred;
 - g. Establish strategies to protect a victim of bullying, reprisal, or retaliation; and
 - h. Establish disciplinary measures to be imposed upon an individual who makes a false accusation, report, or complaint pertaining to bullying, reprisal, or retaliation.
3. In developing the bullying policy required by this section, a school district shall involve parents, school district employees, volunteers, students, school district administrators, law enforcement personnel, domestic violence sexual assault

organizations as defined by subsection 3 of section 14-07.1-01, and community representatives.

4. Upon completion of the policy required by this section, a school district shall:
 - a. Ensure that the policy is explained to and discussed with its students;
 - b. File a copy of the policy with the superintendent of public instruction; and
 - c. Make the policy available in student and personnel handbooks.
5. Each school district shall review and revise its policy as it determines necessary and shall file a copy of the revised policy with the superintendent of public instruction.

SECTION 3. A new section to chapter 15.1-19 of the North Dakota Century Code is created and enacted as follows:

Professional development activities.

Each school district shall include, in professional development activities, information regarding the prevention of bullying and shall provide information regarding the prevention of bullying to all volunteers and nonlicensed personnel who have contact with students.

SECTION 4. A new section to chapter 15.1-19 of the North Dakota Century Code is created and enacted as follows:

Bullying prevention programs.

Each school district shall provide bullying prevention programs to all students from kindergarten through grade twelve.

SECTION 5. A new section to chapter 15.1-19 of the North Dakota Century Code is created and enacted as follows:

Causes of action - Immunity - School districts.

1. This Act does not prevent a victim from seeking redress pursuant to any other applicable civil or criminal law. This Act does not create or alter any civil cause of action for monetary damages against any person or school district, nor does this Act constitute grounds for any claim or motion raised by either the state or a defendant in any proceedings.
2. Any individual who promptly, reasonably, and in good faith reports an incident of bullying, reprisal, or retaliation to the school district employee or official designated in the school district bullying policy is immune from civil or criminal liability resulting from or relating to the report or to the individual's participation in any administrative or judicial proceeding stemming from the report.
3. A school district and its employees are immune from any liability that might otherwise be incurred as a result of a student having been the recipient of bullying, if the school district implemented a bullying policy, as required by section 2 of this Act and substantially complied with that policy.

SECTION 6. A new section to chapter 15.1-19 of the North Dakota Century Code is created and enacted as follows:

Causes of action - Immunity - Nonpublic schools.

1. This Act does not prevent a victim from seeking redress pursuant to any other applicable civil or criminal law. This Act does not create or alter any civil cause of action for monetary damages against any person or nonpublic school, nor does this Act constitute grounds for any claim or motion raised by either the state or a defendant in any proceedings.
2. Any individual who promptly, reasonably, and in good faith reports an incident of bullying, reprisal, or retaliation to the nonpublic school employee or official designated in the school's bullying policy is immune from civil or criminal liability resulting from or relating to the report or to the individual's participation in any administrative or judicial proceeding stemming from the report.
3. A nonpublic school and its employees are immune from any liability that might otherwise be incurred as a result of a student having been the recipient of bullying, if the school implemented a bullying policy, similar to that required by section 2 of this Act and substantially complied with that policy.

Approved April 22, 2011
Filed April 25, 2011

CHAPTER 142

SENATE BILL NO. 2226

(Senators Cook, Freborg)
(Representatives R. Kelsch, J. Kelsh, Wall)

AN ACT to create and enact sections 15.1-20-02.1, 15.1-20-03.1, and 15.1-20-03.2 of the North Dakota Century Code, relating to compulsory attendance at school; and to amend and reenact section 15.1-20-03 of the North Dakota Century Code, relating to compulsory attendance.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 15.1-20-02.1 of the North Dakota Century Code is created and enacted as follows:

15.1-20-02.1. Attendance - Determination - Policies.

1. To be deemed in attendance for purposes of this chapter, a student may not be absent from school without excuse for more than:
 - a. Three consecutive school days during either the first half or the second half of a school or school district's calendar;
 - b. Six half days during either the first half or the second half of a school or school district's calendar; or
 - c. Twenty-one class periods.
2. The board of each school district and governing body of each nonpublic school shall adopt a policy that:
 - a. Defines an excused absence as any absence from school, if that absence is supported by either a verbal or written excuse supplied by the student's parent, teacher, or school administrator; and
 - b. Articulates the type of documentation that may be requested to verify a student's absence.
3. This chapter does not preclude a school district or nonpublic school from withholding credit, removing a student from a course, or taking other punitive measures against a student who does not arrive in a timely fashion or who exceeds a specific number of absences, as determined by the school district or nonpublic school.

SECTION 2. AMENDMENT. Section 15.1-20-03 of the North Dakota Century Code is amended and reenacted as follows:

15.1-20-03. Compulsory attendance law - Enforcement - Penalty.

1. Each teacher and administrator is charged with the enforcement of compulsory ~~school~~ attendance provisions. The compulsory ~~school~~ attendance

provisions are applicable to any childstudent who is offered school facilities by a school district, regardless of whether or not the childstudent actually resides in the district.

2. If a teacher determines that a childstudent is not in attendance as required by this chapter and that the childstudent has not been excused in accordance with this chapter or in accordance with the ~~school's~~ or school district's or nonpublic school's policies, the teacher shall notify the administrator of the school.
3. Upon receiving notice of a childstudent's absence under subsection 2, the administrator shall initiate an investigation into the cause of the absence. If the administrator has reason to believe that the person having responsibility for the childstudent has failed to ensure that the childstudent is in attendance, the administrator shall refer the matter to the local law enforcement agency.
4. Any person who fails to ensure that a childstudent is in attendance as required by this chapter is guilty of an infraction for a first offense and is guilty of a class B misdemeanor for a second or subsequent offense.
5. In a prosecution for an offense under this section, it is an affirmative defense if the person responsible for ensuring that the childstudent is in attendance has made substantial and reasonable efforts to comply with the requirements of this section, but is unable to compel the childstudent to attend school. If the court determines that the affirmative defense is valid, the court shall dismiss the complaint against the person.

SECTION 3. Section 15.1-20-03.1 of the North Dakota Century Code is created and enacted as follows:

15.1-20-03.1. Submission of data.

Each school district and nonpublic school shall submit data regarding school attendance and the application of this chapter to the superintendent of public instruction at the time and in the manner directed by the superintendent.

SECTION 4. Section 15.1-20-03.2 of the North Dakota Century Code is created and enacted as follows:

15.1-20-03.2. Truancy prevention and intervention programs - Resources.

The superintendent of public instruction shall disseminate to school districts and nonpublic schools information regarding truancy prevention and intervention programs and research pertaining to best practices in truancy prevention efforts.

Approved April 20, 2011
Filed April 20, 2011

CHAPTER 143

HOUSE BILL NO. 1154

(Representatives Grande, Dahl, Dosch)
(Senators Grindberg, Holmberg, Robinson)

AN ACT to amend and reenact section 15.1-21-02.6 of the North Dakota Century Code, relating to eligibility for North Dakota scholarships.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁵⁶ **SECTION 1. 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. 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.
2. A student is not entitled to receive more than six thousand dollars under this section.
3. The state board of higher education shall forward the scholarship directly to the institution in which the student is enrolled.
4. This section does not require a student to be enrolled in consecutive semesters. 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.
5. 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. A high school in this state ~~or from a~~
 - b. A high school in a bordering state under chapter 15.1-29; or
 - c. A nonpublic high school in a bordering state while residing with a custodial parent in this state.

Approved April 26, 2011
Filed April 26, 2011

⁵⁶ Section 15.1-21-02.6 was also amended by section 13 of Senate Bill No. 2150, chapter 147.

CHAPTER 144

HOUSE BILL NO. 1273

(Representatives Koppelman, L. Meier, Sanford, Wall)
(Senators J. Lee, Heckaman)

AN ACT to create and enact a new section to chapter 15.1-21 of the North Dakota Century Code, relating to readiness testing and formative assessments of kindergarten students.

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:

Readiness testing and formative assessments - Kindergarten students - School calendar.

1. A school district may conduct readiness testing and formative assessments of incoming kindergarten students. The dates on which the testing and assessments are scheduled may be within the regular school calendar or before the regular school calendar. The school district shall provide to the parents of each incoming kindergarten student the date and time of the student's testing or assessment.
2. A district may consider up to two of the days set aside for readiness testing and formative assessments to be kindergarten instructional days for purposes of section 15.1-06-04. However, the attendance of a kindergarten student on those days is limited to the period of time during which the individual student's testing or assessment is scheduled.

Approved March 28, 2011

Filed March 28, 2011

CHAPTER 145

HOUSE BILL NO. 1229

(Representatives Grande, Rohr, Schatz, Hunsakor)
(Senators Luick, O'Connell)

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

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:

Health curriculum - Content.

Beginning July 1, 2012, each school district and nonpublic school shall ensure that the portion of its health curriculum which is related to sexual health includes instruction pertaining to the risks associated with adolescent sexual activity and the social, psychological, and physical health gains to be realized by abstaining from sexual activity before and outside of marriage.

Approved May 9, 2011
Filed May 10, 2011

CHAPTER 146

HOUSE BILL NO. 1211

(Representatives Damschen, Grande, Ruby)
(Senator Sitte)

AN ACT to amend and reenact sections 15.1-23-01, 15.1-23-02, 15.1-23-03, 15.1-23-06, 15.1-23-08, and 15.1-23-17 of the North Dakota Century Code, relating to home education.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-23-01 of the North Dakota Century Code is amended and reenacted as follows:

15.1-23-01. ~~(Effective through July 31, 2011)~~ Home education - Definition.

For purposes of this chapter, "home education" means a program of education supervised by a child's parent in accordance with the requirements of this chapter.

~~(Effective after July 31, 2011) Home education -- Definition. For purposes of this chapter, "home education" means a program of education supervised by a child's parent, in the child's home, in accordance with the requirements of this chapter.~~

SECTION 2. AMENDMENT. Section 15.1-23-02 of the North Dakota Century Code is amended and reenacted as follows:

15.1-23-02. Statement of intent to supervise home education.

At least fourteen days before beginning home education or within fourteen days of establishing a child's residence in a school district, and once each year thereafter, a parent intending to supervise or supervising home education shall file a statement, reflecting that intent or fact, with the superintendent of the child's school district of residence or if no superintendent is employed, with the county superintendent of schools for the child's county of residence.

1. The statement must include:
 - a. The name and address of the child receiving home education;
 - b. The child's date of birth;
 - c. The child's grade level;
 - d. The name and address of the parent who will supervise the home education;
 - e. The qualifications of the parent who will supervise the home education;
 - f. Any public school courses in which the child intends to participate and the school district offering the courses; and

- g. Any extracurricular activities in which the child intends to participate and the school district or approved nonpublic school offering the activities.
2. The statement must be accompanied by a copy of the child's immunization record and proof of the child's identity as required by section 54-23.2-04.2.
3. The superintendent of the child's school district of residence or if no superintendent is employed, the county superintendent of schools for the child's county of residence shall report the number of statements of intent that have been filed in accordance with this section to the superintendent of public instruction at the time and in the manner required by the superintendent of public instruction.

SECTION 3. AMENDMENT. Section 15.1-23-03 of the North Dakota Century Code is amended and reenacted as follows:

15.1-23-03. ~~(Effective through July 31, 2011)~~ Home education - Parental qualifications.

A parent may supervise home education if the parent:

1. Holds a high school diploma or a general educational development diploma; or
2. Meets the requirements of section 15.1-23-06.

~~(Effective after July 31, 2011) Home education - Parental qualifications. A parent may supervise home education if 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;~~
- ~~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 a test; or~~
- ~~4. Meets the requirements of section 15.1-23-06.~~

SECTION 4. AMENDMENT. Section 15.1-23-06 of the North Dakota Century Code is amended and reenacted as follows:

15.1-23-06. ~~(Effective through July 31, 2011)~~ Home education - Required monitoring of progress.

A parent who does not meet the qualifications provided in section 15.1-23-03 may supervise home education but must be monitored in accordance with section 15.1-23-07 for the first two years. If a child receiving home education obtains a basic composite standardized achievement test score below the fiftieth percentile nationally, the parent must be monitored for at least one additional school year and until the child receives a test score at or above the fiftieth percentile. If testing is not required by section 15.1-23-07 during the first two years of monitoring, the period of monitoring may not be extended, except upon the mutual consent of the parent and the monitor. If a parent completes the monitoring requirements of this section for one child, the parent may not be monitored with respect to other children for whom the parent supervises home education.

~~(Effective after July 31, 2011) Home education – Required monitoring of progress.~~ A parent who has a high school diploma or a general education development certificate may supervise home education but must be monitored in accordance with section 15.1-23-07 for the first two years. If a child receiving home education obtains a basic composite standardized achievement test score below the fiftieth percentile nationally, the parent must be monitored for at least one additional school year and until the child receives a test score at or above the fiftieth percentile. If testing is not required by section 15.1-23-07 during the first two years of monitoring, the period of monitoring may not be extended, except upon the mutual consent of the parent and the monitor. If a parent completes the monitoring requirements of this section for one child, the parent may not be monitored with respect to other children for whom the parent supervises home education.

SECTION 5. AMENDMENT. Section 15.1-23-08 of the North Dakota Century Code is amended and reenacted as follows:

15.1-23-08. (Effective through July 31, 2014) Test administration.

An individual who in accordance with this chapter administers a standardized achievement test to a child receiving home education shall notify the child's school district of residence.

~~(Effective after July 31, 2011) Monitoring or test administration.~~ An individual who in accordance with this chapter monitors a child receiving home education or who administers a standardized achievement test to a child receiving home education shall notify the child's school district of residence.

SECTION 6. AMENDMENT. Section 15.1-23-17 of the North Dakota Century Code is amended and reenacted as follows:

15.1-23-17. (Effective through July 31, 2014) Home education - High school diplomas.

1. A child's school district of residence, an approved nonpublic high school, or the center for distance education may issue a high school diploma to a child who, through home education, has met the issuing entity's requirements for high school graduation provided the child's parent submits to the issuing entity a description of the course material covered in each high school subject, a description of the course objectives and how the objectives were met, and a transcript of the child's performance in grades nine through twelve.
2. In the alternative, a high school diploma may be issued by the child's school district of residence, an approved nonpublic high school, or the center for distance education provided the child, through home education, has completed at least ~~twenty-one~~twenty-two units of high school coursework from the minimum required curriculum offerings established by law for public and nonpublic schools and the child's parent or legal guardian submits to the issuing entity a description of the course material covered in each high school subject, a description of the course objectives and how the objectives were met, and a transcript of the child's performance in grades nine through twelve. The issuing entity may indicate on a diploma issued under this subsection that the child was provided with home education. ~~Beginning with the 2009-10 school year, the number of units required by this section increases to twenty-two and beginning with the 2011-12 school year, the number of units required by this section increases to twenty-four. Beginning with the 2010-11~~

~~school year, the number of units required by this section increases to twenty-two.~~

- ~~3. If for any reason the documentation required in subsection 1 or 2 is unavailable, the entity issuing the diploma may accept any other reasonable proof that the child has met the applicable requirements for high school graduation.~~

(Effective after July 31, 2011) Home education – High school diplomas.

- ~~1. A child's school district of residence, an approved nonpublic high school, or the center for distance education may issue a high school diploma to a child who, through home education, has met the issuing entity's requirements for high school graduation provided the child's parent submits to the issuing entity a description of the course material covered in each high school subject, a description of the course objectives and how the objectives were met, and a transcript of the child's performance in grades nine through twelve.~~
- ~~2. In the alternative, a high school diploma may be issued by the child's school district of residence, an approved nonpublic high school, or the center for distance education provided the child, through home education, has completed at least twenty-one units of high school coursework from the minimum required curriculum offerings established by law for public and nonpublic schools and the child's parent or legal guardian submits to the issuing entity a description of the course material covered in each high school subject, a description of the course objectives and how the objectives were met, and a transcript of the child's performance in grades nine through twelve. The issuing entity may indicate on a diploma issued under this subsection that the child was provided with home education. Beginning with the 2010-11 school year, the number of units required by this section increases to twenty-two.~~
- ~~3. If for any reason the documentation required in subsection 1 or 2 is unavailable, the entity issuing the diploma may accept any other reasonable proof that the child has met the applicable requirements for high school graduation.~~

Approved April 4, 2011

Filed April 4, 2011

CHAPTER 147

SENATE BILL NO. 2150

(Senators Flakoll, Holmberg, O'Connell)
(Representatives R. Kelsch, Hawken, Delmore)

AN ACT to create and enact a new section to chapter 6-09, a new section to chapter 15.1-09.1, four new sections to chapter 15.1-18.2, two new sections to chapter 15.1-21, and a new section to chapter 15.1-27 of the North Dakota Century Code, relating to required transfers, regional education associations, the professional development advisory committee, North Dakota scholarships, and state aid; to amend and reenact sections 15.1-07-33, 15.1-09.1-02, 15.1-21-02.1, 15.1-21-02.4, 15.1-21-02.5, 15.1-21-02.6, 15.1-21-08, 15.1-21-18, 15.1-21-19, 15.1-22-01, 15.1-22-02, 15.1-27-03, 15.1-27-03.1, 15.1-27-04, 15.1-27-07.2, 15.1-27-11, 15.1-27-23, 15.1-27-35.3, 15.1-36-02, and 15.1-37-01, subsection 1 of section 15.1-37-02, and section 15.1-37-03 of the North Dakota Century Code, relating to technology, regional education associations, curriculum requirements, assessments, scholarships, kindergartens, student consultations, state aid, school construction funding, and early childhood education, care, and services; to repeal section 5 of this Act and sections 15.1-18.2-01, 15.1-18.2-02, 15.1-18.2-03, and 15.1-27-15 of the North Dakota Century Code, relating to professional development and isolated schools; to provide an appropriation; to provide for compensation increases, transition payments, and the distribution of transportation grants, alternative middle school grants, and rapid enrollment growth grants; to provide for legislative management studies and reports; to provide an effective date; to provide an expiration date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁵⁷ **SECTION 1.** A new section to chapter 6-09 of the North Dakota Century Code is created and enacted as follows:

Required transfer - Special education contract costs.

If the industrial commission is notified by the superintendent of public instruction that, using all available sources, there are insufficient moneys with which to fully reimburse school districts for the excess costs of serving the one percent of special education students statewide who require the greatest school district expenditures in order to be provided with special education and related services, the industrial commission shall transfer from the earnings and accumulated and undivided profits of the Bank of North Dakota the amount that the superintendent of public instruction certifies is necessary to provide the statutorily required level of reimbursement. The superintendent of public instruction shall file for introduction legislation requesting that the ensuing legislative assembly return any amount transferred under this section to the Bank of North Dakota.

SECTION 2. AMENDMENT. Section 15.1-07-33 of the North Dakota Century Code is amended and reenacted as follows:

⁵⁷ Section 6-09-44 was also created by section 1 of Senate Bill No. 2078, chapter 79.

15.1-07-33. Student information system - Statewide coordination - Financial support - Exemption.

1. Notwithstanding any other technology requirements imposed by the superintendent of public instruction, the information technology department, or the North Dakota educational technology council, each school district shall acquire PowerSchool through the information technology department and use it as its principal student information system.
2. The superintendent of public instruction shall forward that portion of a school district's state aid which is payable by the superintendent under subdivision n of subsection 1 of section 15.1-27-03.1 directly to the information technology department to reimburse the department for the cost of the school district's acquisition, implementation, or utilization of PowerSchool and any related technology support services. The superintendent shall forward the amount payable under this subsection at the same time and in the same manner as provided for other state aid payments under section 15.1-27-01.
3. If the portion of a school district's state aid forwarded to the information technology department under subsection 2 exceeds the cost incurred by the information technology department in providing for the school district's acquisition, implementation, or utilization of PowerSchool and any related technology support services, the information technology department shall return the excess moneys to the superintendent of public instruction for redistribution to the school district as per student payments.
4. The superintendent of public instruction may exempt a school district from having to acquire and utilize PowerSchool if the school district demonstrates that, in accordance with requirements of the bureau of Indian education, the district has acquired and is utilizing a student information system that is determined to be comparable by the superintendent.

SECTION 3. AMENDMENT. Section 15.1-09.1-02 of the North Dakota Century Code is amended and reenacted as follows:

15.1-09.1-02. ~~Regional education association~~ ~~Joint powers agreement~~ associations - Review by superintendent of public instruction - Criteria.

~~Before~~In order for a group of school districts ~~may~~to be designated as a regional education association, the superintendent of public instruction shall review the joint powers agreement that the districts have entered and verify that: the requirements of this section have been met.

1. The school districts must:
 - a. Have a combined total land mass of at least five thousand eight hundred square miles [1502193 hectares];
 - b. (1) Have a combined total land mass of at least four thousand five hundred square miles [1165494 hectares]; and
 - (2) Number at least twelve;
 - c. (1) Have a combined total land mass of at least four thousand square miles [1035995 hectares]; and

- (2) Have at least three thousand students in average daily membership; or
 - d. (1) Have a combined total land mass of at least one thousand five hundred square miles [388498 hectares]; and
 - (2) Have at least seven thousand five hundred students in average daily membership.
2. The school districts ~~are~~must be contiguous to each other or, if the districts are not contiguous to each other, the superintendent of public instruction shall verify that the participating districts can provide sound educational opportunities to their students in a fiscally responsible manner without injuring other school districts or regional education associations and without negatively impacting the ability of other school districts or regional education associations to provide sound educational opportunities to their students in a fiscally responsible manner. A decision by the superintendent of public instruction under this subsection may be appealed to the state board of public school education. A decision by the state board is final.
 3. The joint powers agreement ~~requires~~must require that the participating school districts maintain a joint operating fund ~~and share various administrative functions and student services in accordance with subsection 4.~~
 4. ~~a. During the first two school years in which a regional education association is operational, each participating school district shall share in at least two administrative functions and two student services, selected by the district.~~
~~b. During the third and fourth school years in which a regional education association is operational, each participating school district shall share in at least three administrative functions and three student services, selected by the district.~~
~~c. During the fifth school year in which a regional education association is operational, and each year thereafter, each participating school district shall share at least five administrative functions and five student services, selected by the district.~~
d. For purposes of this subsection:
 - (1) "Administrative functions" means:
 - (a) Business management;
 - (b) Career and technical education services management;
 - (c) Curriculum mapping or development;
 - (d) Data analysis;
 - (e) Federal program support;
 - (f) Federal title program management;
 - (g) Grant writing;
 - (h) School improvement;

- ~~(i) School safety and environment management;~~
 - ~~(j) Special education services management;~~
 - ~~(k) Staff development;~~
 - ~~(l) Staff retention and recruitment;~~
 - ~~(m) Staff sharing;~~
 - ~~(n) Technology support; and~~
 - ~~(o) Any other functions approved by the superintendent of public instruction.~~
- (2) "Student services" means:
- ~~(a) Advanced placement classes;~~
 - ~~(b) Alternative high schools or alternative high school programs;~~
 - ~~(c) Career and technical education classes;~~
 - ~~(d) Counseling services;~~
 - ~~(e) Common elementary curricula;~~
 - ~~(f) Distance learning classes;~~
 - ~~(g) Dual credit classes;~~
 - ~~(h) Foreign language classes;~~
 - ~~(i) Library and media services;~~
 - ~~(j) Summer programs;~~
 - ~~(k) Supplemental instruction programs; and~~
 - ~~(l) Any other services approved by the superintendent of public instruction.~~
- e. ~~For purposes of this subsection, if a regional education association became operational before July 1, 2005, the 2005-06 school year must be considered the provider's first year of operation.~~
5. The joint powers agreement ~~provides~~must provide:
- a. Criteria for the future participation of school districts that were not parties to the original joint powers agreement;
 - b. An application process by which school districts that were not parties to the original joint powers agreement can become participating districts; and
 - c. A process by which school districts that were not parties to the original joint powers agreement and whose application to participate in the

agreement was denied can appeal the decision to the superintendent of public instruction.

- ~~6-5.~~ The joint powers agreement ~~provides~~must provide for the employment and compensation of staff.
- ~~7-6.~~ The joint powers agreement must:
- a. ~~Establishes~~Establish the number of members on the governing board;
 - b. ~~Establishes~~Establish the manner in which members of the governing board are determined;
 - c. ~~Requires all members~~Require that each member of the governing board ~~or their designees to be individuals~~be an individual currently serving on the board of a participating school district ~~or the designee of a participating school district's board;~~ and
 - d. ~~Allows~~Allow for the inclusion of ex officio nonvoting members on the governing board.
- ~~8-7.~~ The joint powers agreement ~~provides~~must provide that the board of the regional education association shall meet at least quarterly.
- ~~9-8.~~ The joint powers agreement ~~does~~may not permit the regional education association to compensate members of the regional education association board for attending meetings of the board and does not permit the regional education association to reimburse members of the board for any expenses incurred in attending meetings of the board.

SECTION 4. A new section to chapter 15.1-09.1 of the North Dakota Century Code is created and enacted as follows:

Regional education association - Services to be offered.

1. In order to be eligible for state funding, a regional education association must offer the following services to its member districts:
 - a. Coordination and facilitation of professional development activities for teachers and administrators employed by its member districts;
 - b. Supplementation of technology support services;
 - c. Assistance with achieving school improvement goals identified by the superintendent of public instruction;
 - d. Assistance with the collection, analysis, and interpretation of student achievement data; and
 - e. Assistance with the expansion and enrichment of curricular offerings.
2. Subsection 1 does not preclude a regional education association from offering additional services to its member districts.

SECTION 5. A new section to chapter 15.1-18.2 of the North Dakota Century Code is created and enacted as follows:

Professional development advisory committee - Reimbursement of members.

Each member of the professional development advisory committee is entitled to receive reimbursement for expenses as provided by law for state officers if the member is attending committee meetings, except that no member may receive reimbursement under this section for more than three committee meetings during each year of the biennium.

SECTION 6. A new section to chapter 15.1-18.2 of the North Dakota Century Code is created and enacted as follows:

Teacher support program - Establishment.

The education standards and practices board shall:

1. Establish and administer a teacher support program;
2. Employ an individual to serve as a teacher support program coordinator;
3. a. Select and train experienced teachers who will serve as mentors for first-year teachers and assist the first-year teachers with instructional skills development; or
 - b. If a school district or other employing entity listed in section 9 of this Act is not in need of mentors for its first-year teachers, select and train experienced teachers who will work with school district administrators and administrators from the other employing entities to identify the needs of the non-first-year teachers and help the non-first-year teachers address their particular needs through the use of:
 - (1) Research-validated interventions; and
 - (2) Proven instructional methods.

SECTION 7. A new section to chapter 15.1-18.2 of the North Dakota Century Code is created and enacted as follows:

Teacher support program - Availability of services.

The education standards and practices board may use any moneys it receives for the teacher support program to provide staff compensation, training, evaluation, and stipends for mentors and experienced teachers who assist first-year and non-first-year teachers participating in the program, and to pay for any other administrative expenses resulting from the program; provided, however, that the board may not expend more than five percent of the moneys for administrative purposes.

SECTION 8. A new section to chapter 15.1-18.2 of the North Dakota Century Code is created and enacted as follows:

Teacher support program - Authorized service recipients.

The education standards and practices board may provide support services to teachers employed by:

1. School districts;

2. Special education units;
3. Area career and technology centers;
4. Regional education associations; and
5. Schools funded by the bureau of Indian education.

⁵⁸ **SECTION 9. AMENDMENT.** Section 15.1-21-02.1 of the North Dakota Century Code is amended and reenacted as follows:

15.1-21-02.1. High school graduation — Diploma requirementsdiploma - 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 ~~the following twenty-two units of high school coursework:~~

1. ~~Four units of English language arts from a sequence that includes literature, composition, and speech;~~
2. ~~Three units of mathematics;~~
3. ~~Three units of science, including:~~
 - a. ~~One unit of physical science;~~
 - b. ~~One unit of biology; and~~
 - e. ~~(1) One unit of any other science; or~~
~~(2) Two one-half units of any other science;~~
4. ~~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~~
 - e. ~~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. ~~One unit of physical education; or~~
 - b. ~~One-half unit of physical education and one-half unit of health;~~
6. ~~Three units of:~~

⁵⁸ Section 15.1-21-02.1 was also amended by section 3 of House Bill No. 1248, chapter 129, and section 2 of Senate Bill No. 2317, chapter 137.

- a. Foreign languages;
 - b. Native American languages;
 - e. Fine arts; or
 - d. Career and technical education courses; and
7. Any five additional units.
1. The twenty-two units of high school coursework set forth in section 10 of this Act; and
 2. Any additional units of high school coursework required by the issuing entity.

SECTION 10. A new section to chapter 15.1-21 of the North Dakota Century Code is created and enacted as follows:

High school graduation - Minimum requirements.

Except as provided in section 15.1-21-02.3, the following twenty-two units of high school coursework constitute the minimum requirement for high school graduation:

1. Four units of English language arts from a sequence that includes literature, composition, and speech;
2. Three units of mathematics;
3. 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. 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. One unit of physical education; or
b. One-half unit of physical education and one-half unit of health;
6. Three units of:

- a. Foreign languages;
 - b. Native American languages;
 - c. Fine arts; or
 - d. Career and technical education courses; and
7. Any five additional units.

SECTION 11. 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 is eligible to receive a North Dakota career and technical education scholarship provided the student ~~completes all requirements set forth in subsections 1 through 5 and subsection 7 of section 15.1-21-02.1 for a high school diploma and:~~

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. ~~Completes one~~One unit of algebra II, as defined by the superintendent of public instruction, ~~in fulfillment of the mathematics requirement set forth in subsection 2 of section 15.1-21-02.1; and~~
 - b. ~~Completes two~~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; and
- e-7. ~~Completes three~~Completed any five additional units, two of which must be in the area of career and technical education;
2. ~~Obtains a grade of at least "C" in each unit or one-half unit required for the diploma;~~
- 3-8. a. (1) ~~Obtains~~Obtained a cumulative grade point average of at least "B"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 of this section; and
- (2) Obtained a grade of at least "C" in each unit or one-half unit; and
- 4-9. Receives~~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.

SECTION 12. 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 ~~completes all requirements set forth in subsections 1 through 5 and subsection 7 of section 15.1-21-02.1 for a high school diploma and:~~

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. ~~Completes one~~One unit of algebra II, as defined by the superintendent of public instruction, ~~in fulfillment of the mathematics requirement set forth in subsection 2 of section 15.1-21-02.1; and~~
 - b. ~~Completes one additional~~One unit of mathematics for which algebra II, as defined by the superintendent of public instruction, is a prerequisite; ~~and~~
- e.3. ~~Completes~~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;
 - (2) ~~One unit of fine arts or career and technical education~~American sign language; and
- (3)b. One unit of a foreign or native selected from:
 - (1) Foreign languages;
 - (2) Native American language, fine languages;
 - (3) American sign language;

(4) Fine arts, or career, or

(5) Career and technical education;

2. Obtains a grade of at least "C" in each unit or one-half unit required for the diploma;

~~3-7.~~ Obtains 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 "B"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 of this section; and

(2) Obtained a grade of at least "C" in each unit or one-half unit;

~~4-9.~~ ReceivesReceived a composite score of at least twenty-four on an ACT; and

~~5-10.~~ a. CompletesFulfilled any one unit requirement set forth in subsections 1 through 7 of this section by means of an advanced placement course and examination; or

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

⁵⁹ **SECTION 13. 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.

⁵⁹ Section 15.1-21-02.6 was also amended by section 1 of House Bill No. 1154, chapter 143.

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.
- ~~2-3.~~ A student is not entitled to receive more than six thousand dollars under this section.
- ~~3-4.~~ The state board of higher education shall forward the scholarship directly to the institution in which the student is enrolled.
- 4-5.
 - 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.
- 5-6. A scholarship under this section is available to any eligible student who graduates from a high school in this state or from a high school in a bordering state under chapter 15.1-29.
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 14. A new section to chapter 15.1-21 of the North Dakota Century Code is created and enacted as follows:

North Dakota scholarship - Eligibility - One-time exception.

1.
 - a. Notwithstanding section 15.1-21-02.6, if a student's cumulative grade point average as determined by the state board of higher education at the conclusion of a semester is below 2.75, the board shall grant an exception and provide the North Dakota scholarship to which the student would otherwise be entitled for the next semester in which the student is enrolled full time. The exception provided by this section is applicable to a student only one time.
 - b. If a student's cumulative grade point average as determined by the state board of higher education at the conclusion of a semester is below 2.75 for a second time, the student is no longer eligible to receive any additional North Dakota academic or career and technical education scholarships.
2.
 - a. Notwithstanding section 15.1-21-02.6, if a student's cumulative grade point average as determined by the state board of higher education at the conclusion of a quarter is below 2.75, the board shall grant an exception and provide the North Dakota scholarship to which the student would otherwise be entitled for the next quarter in which the student is enrolled

full time. The exception provided by this section is applicable to a student only one time.

- b. If a student's cumulative grade point average as determined by the state board of higher education at the conclusion of a quarter is below 2.75 for a second time, the student is no longer eligible to receive any additional North Dakota academic or career and technical education scholarships.

SECTION 15. 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 ~~to all public school students in at least one grade level selected within each of the following grade spans: grades three through five; grades six through nine; and grades ten through twelve. Beginning no later than the 2005-06 school year and annually thereafter, the superintendent of public instruction shall administer the reading and mathematics test~~ annually to all public school students in grades three, four, five, six, seven, eight, and eleven.
2. ~~Beginning no later than the 2007-08 school year and annually thereafter, the~~ 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 grade eleven. The superintendent of public instruction may not administer the grade eleven test after December first of each school year.

SECTION 16. AMENDMENT. Section 15.1-21-18 of the North Dakota Century Code is amended and reenacted as follows:

15.1-21-18. Career interest inventory - Educational and career planning - Consultation.

1. A school district shall administer to students, once during their enrollment in grade seven or eight and once during their enrollment in grade nine or ten, a career interest inventory recommended by the department of career and technical education and approved by the superintendent of public instruction.
2. At least once during the seventh or eighth grade, each school district shall arrange for students to participate in either an individual consultative process or a nine-week course, for the purpose of discussing the results of their career interest inventory, selecting high school courses appropriate to their educational pursuits and career interests, and developing individual high school education plans.
3. Each school district shall notify its high school students that, upon request, a student is entitled to receive a consultative review of the student's individual high school education plan at least once during each high school grade. Upon the request of a student, the school district shall provide the consultative review.

4. Each school district shall verify compliance with the requirements of this section at the time and in the manner required by the superintendent of public instruction.

SECTION 17. AMENDMENT. Section 15.1-21-19 of the North Dakota Century Code is amended and reenacted as follows:

15.1-21-19. Summative assessment - Selection - Cost - Exemptions.

1. Except as otherwise provided, each public and nonpublic school student in grade eleven shall take the ACT, including the writing test, or three WorkKeys assessments recommended by the department of career and technical education and approved by the superintendent of public instruction. The student shall determine which summative assessment to take. ~~The student's school district of residence~~ superintendent of public instruction is responsible for the cost of procuring and administering one summative assessment ~~and its administration~~ per student.
2. The student's career advisor or guidance counselor shall meet with the student to review the student's assessment results.
3. A school district superintendent or a school administrator in the case of a nonpublic school student may exempt a student from the requirements of this section if taking the test is not required by the student's individualized education program plan or if other special circumstances exist.
4. ~~If the superintendent of public instruction determines that the cost of the summative assessment and its administration can be reduced through use of a state procurement process, the superintendent shall work with the school districts to procure and arrange for the administration of the assessment and shall withhold each district's share of the total cost from any state aid otherwise payable to the district.~~ At the time and in the manner determined by the superintendent of public instruction, each school district superintendent and each school administrator in the case of a nonpublic school shall report the number of eleventh grade students who:
 - a. Took the ACT, including the writing test;
 - b. Took the three WorkKeys assessments; and
 - c. Were exempted from the requirements of this section, together with the reason for each exemption.

SECTION 18. AMENDMENT. Section 15.1-22-01 of the North Dakota Century Code is amended and reenacted as follows:

15.1-22-01. Kindergarten - Establishment by board - Request by parent - Levy.

1. ~~Upon its own motion, the~~ The board of a school district ~~may establish a free public kindergarten.~~
2. ~~If the board receives a written request to provide kindergarten from the parent of a student who will be enrolled in the kindergarten, the board shall either provide at least a half-day kindergarten program for the~~ any student enrolled in

~~the district~~ or pay the tuition required for the student to attend ~~at least a half-day~~ kindergarten program in another school district.

- ~~3-2.~~ The board of a school district that establishes a kindergarten under this section may levy a tax pursuant to subdivision p of subsection 1 of section 57-15-14.2.

⁶⁰ **SECTION 19. AMENDMENT.** Section 15.1-22-02 of the North Dakota Century Code is amended and reenacted as follows:

15.1-22-02. Public kindergarten - Requirements.

A school district operating a kindergarten:

1. May not employ an individual as a kindergarten teacher unless the individual is licensed to teach by the education standards and practices board or approved by the education standards and practices board;
 2. Shall submit to the superintendent of public instruction and follow a developmentally appropriate curriculum;
 3. Shall provide ~~at least the equivalent of thirty full days of kindergarten~~ instruction, on a half-day or full-day basis, as determined by the school board;
 4. Shall provide for a kindergarten instructional calendar equal to at least fifty percent of the full-time instructional days required in accordance with section 15.1-06-04;
 5. Shall apply all municipal and state health, fire, and safety requirements to the kindergarten; and
- ~~5-6.~~ May not enroll a child who is not five years old before August first of the year of enrollment, unless the child will be five 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 kindergarten operator, can demonstrate academic, social, and emotional readiness; or
 - b. The child has been enrolled in another approved kindergarten.

SECTION 20. AMENDMENT. Section 15.1-27-03 of the North Dakota Century Code is amended and reenacted as follows:

15.1-27-03. Cost of education - Determination.

1. The superintendent of public instruction shall determine the educational cost per student.
2. In determining the educational cost per student, the superintendent may not use:
 - a. Capital outlay for buildings;

⁶⁰ Section 15.1-22-02 was also amended by section 2 of House Bill No. 1436, chapter 130.

- b. Capital outlay for sites-;
- c. Capital outlay for debt service-;
- d. Expenditures for school activities-;
- e. Expenditures for school lunch programs-;
- f. Expenditures for transportation costs, including schoolbuses; or
- g. Expenditures for early childhood education.

SECTION 21. AMENDMENT. Section 15.1-27-03.1 of the North Dakota Century Code is amended and reenacted as follows:

15.1-27-03.1. (~~Effective through June 30, 2011~~) ~~Weighted average daily membership – Determination.~~

- 4. ~~For each school district, the superintendent of public instruction shall multiply by:~~
 - a. ~~1.00 the number of full-time equivalent students enrolled in a migrant summer program;~~
 - b. ~~1.00 the number of full-time equivalent students enrolled in an extended educational program in accordance with section 15.1-32-17;~~
 - c. ~~0.60 the number of full-time equivalent students enrolled in a summer education program;~~
 - d. ~~0.50 the number of full-time equivalent students enrolled in a home-based education program and monitored by the school district under chapter 15.1-23;~~
 - e. ~~0.30 the number of full-time equivalent students who on a test of English language proficiency approved by the superintendent of public instruction are determined to be least proficient and are enrolled in a program of instruction for English language learners;~~
 - f. ~~0.25 the number of full-time equivalent students enrolled in an alternative high school;~~
 - g. ~~0.25 the number of full-time equivalent students enrolled in an isolated elementary school;~~
 - h. ~~0.25 the number of full-time equivalent students enrolled in an isolated high school;~~
 - i. ~~0.20 the number of full-time equivalent students attending school in a bordering state in accordance with section 15.1-29-04;~~
 - j. ~~0.20 the number of full-time equivalent students who on a test of English language proficiency approved by the superintendent of public instruction are determined to be not proficient and are enrolled in a program of instruction for English language learners;~~

- ~~k. 0.17 the number of full-time equivalent students enrolled in an early childhood special education program;~~
 - ~~l. 0.07 the number of students enrolled in average daily membership, in order to support the provision of special education services;~~
 - ~~m. 0.07 the number of full-time equivalent students who on a test of English language proficiency approved by the superintendent of public instruction are determined to be somewhat proficient and are enrolled in a program of instruction for English language learners;~~
 - ~~n. 0.004 the number of students enrolled in average daily membership in a school district that is a participating member of a regional education association meeting the requirements of chapter 15.1-09.1; and~~
 - ~~e. 0.002 the number of students enrolled in average daily membership, in order to support technology.~~
2. The superintendent of public instruction shall determine each school district's weighted average daily membership by adding the products derived under subsection 1 to the district's average daily membership.

~~(Effective after June 30, 2011) Weighted average daily membership - Determination.~~

1. For each school district, the superintendent of public instruction shall multiply by:
 - a. 1.00 the number of full-time equivalent students enrolled in a migrant summer program;
 - b. 1.00 the number of full-time equivalent students enrolled in an extended educational program in accordance with section 15.1-32-17;
 - c. 0.60 the number of full-time equivalent students enrolled in a summer education program;
 - d. 0.50 the number of full-time equivalent students enrolled in a home-based education program and monitored by the school district under chapter 15.1-23;
 - e. 0.30 the number of full-time equivalent students who ~~are~~:
 - (1) On a test of English language proficiency approved by the superintendent of public instruction are determined to be least proficient and placed in the first of six categories of proficiency; and are
 - (2) Are enrolled in a program of instruction for English language learners;
 - f. 0.25 the number of full-time equivalent students enrolled in an alternative high school;
 - g. ~~0.25 the number of full-time equivalent students enrolled in an isolated elementary school;~~

- ~~h.~~ ~~0.25 the number of full-time equivalent students enrolled in an isolated high school;~~
- i. 0.20 the number of full-time equivalent students attending school in a bordering state in accordance with section 15.1-29-01;
- ~~j-h.~~ 0.20 the number of full-time equivalent students who are:
- (1) ~~On~~ a test of English language proficiency approved by the superintendent of public instruction are determined to be ~~not more~~ more proficient than students placed in the first of six categories of proficiency and therefore placed in the second of six categories of proficiency; and ~~are~~
 - (2) Are enrolled in a program of instruction for English language learners;
- ~~k-i.~~ 0.17 the number of full-time equivalent students enrolled in an early childhood special education program;
- ~~t-j.~~ ~~0.070.10 the number of students enrolled in average daily membership, if the district has fewer than one hundred students enrolled in average daily membership and the district consists of an area greater than two hundred seventy-five square miles [19424.9 hectares], provided that any school district consisting of an area greater than six hundred square miles [155399 hectares] and enrolling fewer than fifty students in average daily membership must be deemed to have an enrollment equal to fifty students in average daily membership;~~
- k. 0.073 the number of students enrolled in average daily membership, in order to support the provision of special education services;
- ~~m-l.~~ 0.07 the number of full-time equivalent students who are:
- (1) ~~On~~ a test of English language proficiency approved by the superintendent of public instruction are determined to be ~~somewhat more proficient and are~~ more proficient than students placed in the second of six categories of proficiency and therefore placed in the third of six categories of proficiency;
 - (2) Are enrolled in a program of instruction for English language learners; and
 - (3) Have not been in the third of six categories of proficiency for more than three years;
- ~~n-m.~~ 0.025 the number of students representing that percentage of the total number of students in average daily membership which is equivalent to the three-year average percentage of students in grades three through eight who are eligible for free or reduced lunches under the Richard B. Russell National School Lunch Act [42 U.S.C. 1751 et seq.];
- n. 0.006 the number of students enrolled in average daily membership in each public school in the district that:

- (1) Has acquired and is utilizing the PowerSchool student information system;
- (2) Has acquired and is in the process of implementing the PowerSchool student information system; or
- (3) Will acquire the PowerSchool student information system during the current school year, provided the acquisition is contractually demonstrated; and
- o. 0.004 the number of students enrolled in average daily membership in a school district that is a participating member of a regional education association meeting the requirements of chapter 15.1-09.1; ~~and~~
- p. ~~0.002 the number of students enrolled in average daily membership, in order to support technology.~~
2. The superintendent of public instruction shall determine each school district's weighted average daily membership by adding the products derived under subsection 1 to the district's average daily membership.

SECTION 22. AMENDMENT. Section 15.1-27-03.1 of the North Dakota Century Code is amended and reenacted as follows:

15.1-27-03.1. (~~Effective through June 30, 2011~~) Weighted average daily membership – Determination.

1. For each school district, the superintendent of public instruction shall multiply by:
- a. ~~1.00 the number of full-time equivalent students enrolled in a migrant summer program;~~
- b. ~~1.00 the number of full-time equivalent students enrolled in an extended educational program in accordance with section 15.1-32-17;~~
- c. ~~0.60 the number of full-time equivalent students enrolled in a summer education program;~~
- d. ~~0.50 the number of full-time equivalent students enrolled in a home-based education program and monitored by the school district under chapter 15.1-23;~~
- e. ~~0.30 the number of full-time equivalent students who on a test of English language proficiency approved by the superintendent of public instruction are determined to be least proficient and are enrolled in a program of instruction for English language learners;~~
- f. ~~0.25 the number of full-time equivalent students enrolled in an alternative high school;~~
- g. ~~0.25 the number of full-time equivalent students enrolled in an isolated elementary school;~~
- h. ~~0.25 the number of full-time equivalent students enrolled in an isolated high school;~~

- i. ~~0.20 the number of full-time equivalent students attending school in a bordering state in accordance with section 15.1-29-04;~~
 - j. ~~0.20 the number of full-time equivalent students who on a test of English language proficiency approved by the superintendent of public instruction are determined to be not proficient and are enrolled in a program of instruction for English language learners;~~
 - k. ~~0.17 the number of full-time equivalent students enrolled in an early childhood special education program;~~
 - l. ~~0.07 the number of students enrolled in average daily membership, in order to support the provision of special education services;~~
 - m. ~~0.07 the number of full-time equivalent students who on a test of English language proficiency approved by the superintendent of public instruction are determined to be somewhat proficient and are enrolled in a program of instruction for English language learners;~~
 - n. ~~0.004 the number of students enrolled in average daily membership in a school district that is a participating member of a regional education association meeting the requirements of chapter 15.1-09.1; and~~
 - o. ~~0.002 the number of students enrolled in average daily membership, in order to support technology.~~
2. ~~The superintendent of public instruction shall determine each school district's weighted average daily membership by adding the products derived under subsection 1 to the district's average daily membership.~~

~~(Effective after June 30, 2011) Weighted average daily membership - Determination.~~

1. For each school district, the superintendent of public instruction shall multiply by:
 - a. 1.00 the number of full-time equivalent students enrolled in a migrant summer program;
 - b. 1.00 the number of full-time equivalent students enrolled in an extended educational program in accordance with section 15.1-32-17;
 - c. 0.60 the number of full-time equivalent students enrolled in a summer education program;
 - d. 0.50 the number of full-time equivalent students enrolled in a home-based education program and monitored by the school district under chapter 15.1-23;
 - e. 0.30 the number of full-time equivalent students who ~~are~~:
- (1) On a test of English language proficiency approved by the superintendent of public instruction are determined to be least proficient and placed in the first of six categories of proficiency; and are

- (2) Are enrolled in a program of instruction for English language learners;
- f. 0.25 the number of full-time equivalent students enrolled in an alternative high school;
- g. ~~0.25 the number of full-time equivalent students enrolled in an isolated elementary school;~~
- h. ~~0.25 the number of full-time equivalent students enrolled in an isolated high school;~~
- i. 0.20 the number of full-time equivalent students attending school in a bordering state in accordance with section 15.1-29-01;
- ~~j-h.~~ 0.20 the number of full-time equivalent students who ~~are~~:
- (1) On a test of English language proficiency approved by the superintendent of public instruction are determined to be ~~not more~~ more proficient than students placed in the first of six categories of proficiency and therefore placed in the second of six categories of proficiency; and ~~are~~
- (2) Are enrolled in a program of instruction for English language learners;
- ~~k-i.~~ 0.17 the number of full-time equivalent students enrolled in an early childhood special education program;
- ~~l-j.~~ 0.070.10 the number of students enrolled in average daily membership, if the district has fewer than one hundred students enrolled in average daily membership and the district consists of an area greater than two hundred seventy-five square miles [19424.9 hectares], provided that any school district consisting of an area greater than six hundred square miles [155399 hectares] and enrolling fewer than fifty students in average daily membership must be deemed to have an enrollment equal to fifty students in average daily membership;
- ~~k.~~ 0.079 the number of students enrolled in average daily membership, in order to support the provision of special education services;
- ~~m-l.~~ 0.07 the number of full-time equivalent students who ~~are~~:
- (1) On a test of English language proficiency approved by the superintendent of public instruction are determined to be ~~some what more~~ more proficient and are than students placed in the second of six categories of proficiency and therefore placed in the third of six categories of proficiency;
- (2) Are enrolled in a program of instruction for English language learners; and
- (3) Have not been in the third of six categories of proficiency for more than three years;
- ~~n-m.~~ 0.025 the number of students representing that percentage of the total number of students in average daily membership which is equivalent to the

three-year average percentage of students in grades three through eight who are eligible for free or reduced lunches under the Richard B. Russell National School Lunch Act [42 U.S.C. 1751 et seq.];

n. 0.006 the number of students enrolled in average daily membership in each public school in the district that:

(1) Has acquired and is utilizing the PowerSchool student information system;

(2) Has acquired and is in the process of implementing the PowerSchool student information system; or

(3) Will acquire the PowerSchool student information system during the current school year, provided the acquisition is contractually demonstrated; and

o. 0.004 the number of students enrolled in average daily membership in a school district that is a participating member of a regional education association meeting the requirements of chapter 15.1-09.1; ~~and~~

p. ~~0.002 the number of students enrolled in average daily membership, in order to support technology.~~

2. The superintendent of public instruction shall determine each school district's weighted average daily membership by adding the products derived under subsection 1 to the district's average daily membership.

SECTION 23. AMENDMENT. Section 15.1-27-03.1 of the North Dakota Century Code is amended and reenacted as follows:

15.1-27-03.1. ~~(Effective through June 30, 2011) Weighted average daily membership – Determination.~~

4. ~~For each school district, the superintendent of public instruction shall multiply by:~~

a. ~~1.00 the number of full-time equivalent students enrolled in a migrant summer program;~~

b. ~~1.00 the number of full-time equivalent students enrolled in an extended educational program in accordance with section 15.1-32-17;~~

c. ~~0.60 the number of full-time equivalent students enrolled in a summer education program;~~

d. ~~0.50 the number of full-time equivalent students enrolled in a home-based education program and monitored by the school district under chapter 15.1-23;~~

e. ~~0.30 the number of full-time equivalent students who on a test of English language proficiency approved by the superintendent of public instruction are determined to be least proficient and are enrolled in a program of instruction for English language learners;~~

- ~~f. 0.25 the number of full-time equivalent students enrolled in an alternative high school;~~
 - ~~g. 0.25 the number of full-time equivalent students enrolled in an isolated elementary school;~~
 - ~~h. 0.25 the number of full-time equivalent students enrolled in an isolated high school;~~
 - ~~i. 0.20 the number of full-time equivalent students attending school in a bordering state in accordance with section 15.1-29-04;~~
 - ~~j. 0.20 the number of full-time equivalent students who on a test of English language proficiency approved by the superintendent of public instruction are determined to be not proficient and are enrolled in a program of instruction for English language learners;~~
 - ~~k. 0.17 the number of full-time equivalent students enrolled in an early childhood special education program;~~
 - ~~l. 0.07 the number of students enrolled in average daily membership, in order to support the provision of special education services;~~
 - ~~m. 0.07 the number of full-time equivalent students who on a test of English language proficiency approved by the superintendent of public instruction are determined to be somewhat proficient and are enrolled in a program of instruction for English language learners;~~
 - ~~n. 0.004 the number of students enrolled in average daily membership in a school district that is a participating member of a regional education association meeting the requirements of chapter 15.1-09.1; and~~
 - ~~o. 0.002 the number of students enrolled in average daily membership, in order to support technology.~~
- ~~2. The superintendent of public instruction shall determine each school district's weighted average daily membership by adding the products derived under subsection 1 to the district's average daily membership.~~

(Effective after June 30, 2011) Weighted average daily membership - Determination.

1. For each school district, the superintendent of public instruction shall multiply by:
 - a. 1.00 the number of full-time equivalent students enrolled in a migrant summer program;
 - b. 1.00 the number of full-time equivalent students enrolled in an extended educational program in accordance with section 15.1-32-17;
 - c. 0.60 the number of full-time equivalent students enrolled in a summer education program;

- d. 0.50 the number of full-time equivalent students enrolled in a home-based education program and monitored by the school district under chapter 15.1-23;
- e. 0.30 the number of full-time equivalent students who ~~are~~:
- (1) On a test of English language proficiency approved by the superintendent of public instruction are determined to be least proficient and placed in the first of six categories of proficiency; and ~~are~~
 - (2) Are enrolled in a program of instruction for English language learners;
- f. 0.25 the number of full-time equivalent students enrolled in an alternative high school;
- ~~g. 0.25 the number of full-time equivalent students enrolled in an isolated elementary school;~~
- ~~h. 0.25 the number of full-time equivalent students enrolled in an isolated high school;~~
- ~~i. 0.20 the number of full-time equivalent students attending school in a bordering state in accordance with section 15.1-29-01;~~
- ~~j-h. 0.20 the number of full-time equivalent students who ~~are~~:~~
- (1) On a test of English language proficiency approved by the superintendent of public instruction are determined to be ~~not~~more proficient than students placed in the first of six categories of proficiency and therefore placed in the second of six categories of proficiency; and ~~are~~
 - (2) Are enrolled in a program of instruction for English language learners;
- ~~k-i. 0.17 the number of full-time equivalent students enrolled in an early childhood special education program;~~
- ~~j. 0.15 the number of full-time equivalent students in grades six through eight enrolled in an alternative education program for at least an average of fifteen hours per week;~~
- ~~k-k. 0.070.10 the number of students enrolled in average daily membership, if the district has fewer than one hundred students enrolled in average daily membership and the district consists of an area greater than two hundred seventy-five square miles [19424.9 hectares], provided that any school district consisting of an area greater than six hundred square miles [155399 hectares] and enrolling fewer than fifty students in average daily membership must be deemed to have an enrollment equal to fifty students in average daily membership;~~
- ~~l. 0.079 the number of students enrolled in average daily membership, in order to support the provision of special education services;~~
- m. 0.07 the number of full-time equivalent students who ~~are~~:

- (1) On a test of English language proficiency approved by the superintendent of public instruction are determined to be somewhat more proficient and are than students placed in the second of six categories of proficiency and therefore placed in the third of six categories of proficiency;
- (2) Are enrolled in a program of instruction for English language learners; and
- (3) Have not been in the third of six categories of proficiency for more than three years;
- n. 0.025 the number of students representing that percentage of the total number of students in average daily membership which is equivalent to the three-year average percentage of students in grades three through eight who are eligible for free or reduced lunches under the Richard B. Russell National School Lunch Act [42 U.S.C. 1751 et seq.];
- o. 0.006 the number of students enrolled in average daily membership in each public school in the district that:
- (1) Has acquired and is utilizing the PowerSchool student information system;
- (2) Has acquired and is in the process of implementing the PowerSchool student information system; or
- (3) Will acquire the PowerSchool student information system during the current school year, provided the acquisition is contractually demonstrated; and
- p. 0.004 the number of students enrolled in average daily membership in a school district that is a participating member of a regional education association meeting the requirements of chapter 15.1-09.1; ~~and~~
- ~~p. 0.002 the number of students enrolled in average daily membership, in order to support technology.~~
2. The superintendent of public instruction shall determine each school district's weighted average daily membership by adding the products derived under subsection 1 to the district's average daily membership.

SECTION 24. AMENDMENT. Section 15.1-27-04 of the North Dakota Century Code is amended and reenacted as follows:

15.1-27-04. Per student payment rate.

1. a. The per student payment rate to which each school district is entitled for the first year of the biennium is three thousand ~~two~~nine hundred ~~ten~~ dollars.
- b. The per student payment rate to which each school district is entitled for the second year of the biennium is three thousand ~~seven~~nine hundred ~~seventy nine~~eighty dollars.

2. In order to determine the state aid payment to which each district is entitled, the superintendent of public instruction shall multiply each district's weighted student units by the per student payment rate set forth in subsection 1.

SECTION 25. AMENDMENT. Section 15.1-27-07.2 of the North Dakota Century Code is amended and reenacted as follows:

15.1-27-07.2. Baseline funding - Determination - Minimum and maximum allowable increases.

1. The superintendent of public instruction shall determine each school district's baseline funding per weighted student unit by:
 - a. Adding together all state aid received by the district during the 2006-07 school year;
 - b. Subtracting the amount received by the district during the 2006-07 school year for transportation aid, special education excess cost reimbursements, special education contracts, prior year funding adjustments, and per student payments for participation in educational associations governed by joint powers agreements; and
 - c. Dividing the amount determined under subdivision b by the district's 2007-08 weighted student units.
2.
 - a. The superintendent of public instruction shall ensure that the total amount of state aid payable to a district per weighted student unit, for the 2009-10 school year, is at least equal to one hundred eight percent of the baseline funding per weighted student unit, as established in subsection 1.
 - b. The superintendent of public instruction shall ensure that the total amount of state aid payable to a district per weighted student unit, for each school year after the 2009-10 school year, is at least equal to one hundred twelve and one-half percent of the baseline funding per weighted student unit, as established in subsection 1.
3. ~~a-~~ The superintendent of public instruction shall ensure that the total amount of state aid payable to a district per weighted student unit, less any amount received as equity payments under section 15.1-27-11 per weighted student unit, does not exceed, for the ~~2009-10~~2011-12 school year, one hundred ~~twenty-four~~twenty-two percent of the baseline funding per weighted student unit, as established in subsection 1.
 - ~~b. The superintendent of public instruction shall ensure that the total amount of state aid payable to a district per weighted student unit, less any amount received as equity payments under section 15.1-27-11 per weighted student unit, does not exceed, for each school year after the 2009-10 school year, one hundred thirty-four percent of the baseline funding per weighted student unit, as established in subsection 1.~~

SECTION 26. AMENDMENT. Section 15.1-27-11 of the North Dakota Century Code is amended and reenacted as follows:

15.1-27-11. Equity payments.

1. The superintendent of public instruction shall:

- a. Divide the imputed taxable valuation of the state by the total average daily membership of all school districts in the state in order to determine the state average imputed taxable valuation per student.
- b. Divide the imputed taxable valuation of each school district by the district's total average daily membership in order to determine each district's average imputed taxable valuation per student.
2. If a school district's imputed taxable valuation per student is less than ninety percent of the statewide imputed taxable valuation per student, the superintendent of public instruction shall calculate the valuation deficiency by:
 - a. Determining the difference between ninety percent of the state average imputed taxable valuation per student and the district's average imputed taxable valuation per student; and
 - b. Multiplying that difference by the district's total average daily membership.
3. Except as provided in subsection 4, the equity payment to which a district is entitled under this section equals the district's valuation deficiency multiplied by the lesser of:
 - a. The district's general fund levy for the taxable year 2008; or
 - b. One hundred eighty-five mills.
4.
 - a. The equity payment to which a district is entitled may not exceed the district's taxable valuation multiplied by its general fund levy for the taxable year 2008.
 - b. If a district's general fund levy for the taxable year 2008 is less than one hundred eighty-five mills, the superintendent of public instruction shall subtract the district's general fund levy for the taxable year 2008 from one hundred eighty-five mills, multiply the result by the district's taxable valuation, and subtract that result from the equity payment to which the district is otherwise entitled.
 - c. If a district's imputed taxable valuation per student is less than fifty percent of the statewide imputed taxable valuation per student, the payment to which the district is entitled under this section may not be less than twenty percent of the statewide imputed taxable valuation per student times the school district's average daily membership, multiplied by one hundred eighty-five mills.
5. In determining the amount to which a school district is entitled under this section, the superintendent of public instruction may not include any payments received by the district as a result of Public Law No. 81-874 [64 Stat. 1100; 20 U.S.C. 236 et seq.] and may not include in the district's average daily membership students who are dependents of members of the armed forces and students who are dependents of civilian employees of the department of defense.
6. In determining the statewide average imputed taxable valuation per student for purposes of this section, the superintendent of public instruction may not include:

- a. Any school district, which if included in the calculation would have an imputed taxable valuation per student that is three times greater than the statewide average imputed taxable valuation per student; and
- b. Any school district, which if included in the calculation would have an imputed taxable valuation per student that is less than one-fifth of the statewide average imputed taxable valuation per student.

Z. For purposes of this section:

- a. "General fund levy" includes a district's high school transportation levy and its high school tuition levy.
- b. "Imputed taxable valuation" means the valuation of all taxable real property in the district plus:
 - (1) An amount determined by dividing seventy percent of the district's mineral and tuition revenue, revenue from payments in lieu of property taxes on distribution and transmission of electric power, revenue from payments in lieu of taxes from electricity generated from sources other than coal, and revenue received on account of the leasing of lands acquired by the United States for flood control, navigation, and allied purposes in accordance with 33 U.S.C. 701c-3 by the district's general fund mill levy for the taxable year 2008; and
 - (2) An amount determined by dividing the district's revenue from mobile home taxes and telecommunications taxes by the district's general fund mill levy for the taxable year 2008.
- c. "Mineral revenue" includes all revenue from county sources reported under code 2000 of the North Dakota school district financial accounting and reporting manual as developed by the superintendent of public instruction in accordance with section 15.1-02-08.
- d. "Tuition revenue" includes all revenue reported under code 1300 of the North Dakota school district financial accounting and reporting manual as developed by the superintendent of public instruction in accordance with section 15.1-02-08. "Tuition revenue" does not include tuition income received specifically for the operation of an educational program provided at a residential treatment facility.

⁶¹ **SECTION 27. AMENDMENT.** Section 15.1-27-23 of the North Dakota Century Code is amended and reenacted as follows:

15.1-27-23. Weather or other emergency conditions - Closure of schools - State aid payments to school districts.

- 1. If because of severe weather or other emergency conditions a public school or school district remains closed or provides less than a full day of instruction, the public school or school district shall make every effort to reschedule classes so that students receive at least ~~one hundred seventy three~~ the number of full instructional days of instruction required by section 15.1-06-04.

⁶¹ Section 15.1-27-23 was also amended by section 1 of House Bill No. 1030, chapter 148.

2. Any public school or school district for which the rescheduling of classes would create undue hardship may request that, for purposes of calculating state aid payments to the ~~school~~ or school district, the governor waive the rescheduling in whole or in part.
3. The governor may not grant a waiver for less than a full day of instruction. However, if a public school or school district closes for only a portion of its regular schoolday, the hours during which the school or school district is closed may be added together to determine the number of additional full days of instruction that may be waived under this section.

SECTION 28. AMENDMENT. Section 15.1-27-35.3 of the North Dakota Century Code is amended and reenacted as follows:

~~15.1-27-35.3. (Effective through June 30, 2011) Payments to school districts – Unobligated general fund balance – Report to legislative council.~~

- ~~1. The superintendent of public instruction shall determine the amount of payments due a school district and shall subtract from that the amount by which the unobligated general fund balance of the district on the preceding June thirtieth is in excess of fifty percent of its actual expenditures, plus twenty thousand dollars. Beginning July 1, 2008, the superintendent of public instruction shall determine the amount of payments due a school district and shall subtract from that the amount by which the unobligated general fund balance of the district on the preceding June thirtieth is in excess of forty five percent of its actual expenditures, plus twenty thousand dollars.~~
2. In making the determination required by subsection 1, the superintendent of public instruction may not include in a district's unobligated general fund balance any moneys that:
 - ~~a. (1) Were received by the district during the school year ending June 30, 2009, on account of the leasing of lands acquired by the United States for flood control, navigation, and allied purposes in accordance with 33 U.S.C. 701c-3; and~~
 - ~~(2) Exceeded the amount received by the district during the school year ending June 30, 2008, for the purpose stated in paragraph 1;~~
 - ~~b. Were received directly by the district from the United States government in accordance with the American Recovery and Reinvestment Act of 2009; or~~
 - ~~c. Were received by the district as supplemental one time grants under section 52 of S.L. 2009, ch. 175.~~
3. Any district having more than fifty thousand dollars excluded in the determination of its ending fund balance, as required by subsection 2, shall provide a report to the legislative council. The report, which must be presented at the time and in the manner directed by the legislative council, must address how the money was expended, including the number of mills by which the district was able to decrease its property taxes, if such was a permitted use.

~~(Effective after June 30, 2011)~~ **Payments to school districts - Unobligated general fund balance.**

- ~~1. The superintendent of public instruction shall determine the amount of payments due a school district and shall subtract from that the amount by which the unobligated general fund balance of the district on the preceding June thirtieth is in excess of fifty percent of its actual expenditures, plus twenty thousand dollars. Beginning July 1, 2008, the superintendent of public instruction shall determine the amount of payments due a school district and shall subtract from that the amount by which the unobligated general fund balance of the district on the preceding June thirtieth is in excess of forty-five percent of its actual expenditures, plus twenty thousand dollars.~~
2. In making the determination required by subsection 1, the superintendent of public instruction may not include in a district's unobligated general fund balance any moneys that were received by the district from the federal education jobs fund program.

SECTION 29. A new section to chapter 15.1-27 of the North Dakota Century Code is created and enacted as follows:

Distribution of remaining moneys.

If any money remains in the grants - state aid line item after the superintendent complies with all statutory payment obligations imposed for a biennium, the superintendent shall use the remaining moneys to provide additional per student payments on a prorated basis according to the latest available average daily membership of each school district.

SECTION 30. AMENDMENT. Section 15.1-36-02 of the North Dakota Century Code is amended and reenacted as follows:

15.1-36-02. School construction projects - Loans.

1. The board of university and school lands may authorize the use of moneys in the coal development trust fund established pursuant to section 21 of article X of the Constitution of North Dakota and subsection 1 of section 57-62-02 to provide school construction loans, as described in this chapter. The outstanding principal balance of loans under this chapter may not exceed fifty million dollars. The board may adopt policies and rules governing school construction loans.
2. In order to be eligible for a loan under this section, the board of a school district shall:
 - a. Propose a construction project with a cost of at least one million dollars and an expected utilization of at least thirty years;
 - b. Obtain the approval of the superintendent of public instruction for the construction project under section 15.1-36-01; and
 - c. Submit to the superintendent of public instruction an application containing all information deemed necessary by the superintendent, including potential alternative sources or methods of financing the construction project.

3. The superintendent of public instruction shall give priority to any district that meets the requirements for receipt of an equity payment under section 15.1-27-11.
4. If an eligible school district's imputed taxable valuation per student is less than eighty percent of the state average imputed valuation per student, the district is entitled to receive:
 - a. A school construction loan equal to the lesser of ~~eight~~twelve million dollars or eighty percent of the actual project cost;
 - b. An interest rate discount equal to at least ~~fifty~~one hundred but not more than two hundred fifty basis points below the prevailing tax-free bond rates; and
 - c. A term of repayment that may extend up to twenty years.
5. If an eligible school district's imputed taxable valuation per student is equal to at least eighty percent but less than ninety percent of the state average imputed taxable valuation per student, the district is entitled to receive:
 - a. A school construction loan equal to the lesser of ~~seven~~ten million dollars or seventy percent of the actual project cost;
 - b. An interest rate buydown equal to at least ~~fifty~~one hundred but not more than two hundred fifty basis points below the prevailing tax-free bond rates; and
 - c. A term of repayment that may extend up to twenty years.
6. If an eligible school district's imputed taxable valuation per student is equal to at least ninety percent of the state average imputed taxable valuation per student, the district is entitled to receive:
 - a. A school construction loan equal to the lesser of ~~two~~four million ~~five hundred thousand~~ dollars or thirty percent of the actual project cost;
 - b. An interest rate discount equal to at least ~~fifty~~one hundred but not more than two hundred fifty basis points below the prevailing tax-free bond rates; and
 - c. A term of repayment that may extend up to twenty years.
7. The board of a school district may submit its loan application to the superintendent of public instruction before or after receiving authorization of a bond issue in accordance with chapter 21-03. If the vote to authorize a bond issue precedes the application for a loan, the application must be acted upon by the superintendent expeditiously but no later than one hundred eighty days from the date it is received by the superintendent.
8. The superintendent of public instruction shall consider each loan application in the order it received approval under section 15.1-36-01.

9. If the superintendent of public instruction approves the loan, the superintendent may determine the loan amount, the term of the loan, and the interest rate, in accordance with the requirements of this section.
10. The superintendent of public instruction may adopt rules governing school construction loans.
11. For purposes of this section, a construction project means the purchase, lease, erection, or improvement of any structure or facility by a school board, provided the acquisition or activity is within a school board's authority.

SECTION 31. AMENDMENT. Section 15.1-37-01 of the North Dakota Century Code is amended and reenacted as follows:

15.1-37-01. Early childhood education program - Approval.

1. Any person or school district operating an early childhood education program may request approval of the program from the superintendent of public instruction. The superintendent shall approve an early childhood education program if the program:
 4. a. Is taught by individuals who are licensed to teach in early childhood education by the education standards and practices board;
 2. b. Follows a developmentally appropriate curriculum; ~~and~~
 3. c. Is in compliance with all municipal and state health, fire, and safety requirements; ~~and~~
 - d. Limits its enrollment to children who have reached the age of four before August first in the year of enrollment.
2. ~~Per student funding will not be provided to individuals or school districts offering a prekindergarten. In determining the state aid payments to which a school district is entitled, the superintendent of public instruction may not count any student enrolled in a regular early childhood education program.~~

SECTION 32. AMENDMENT. Subsection 1 of section 15.1-37-02 of the North Dakota Century Code is amended and reenacted as follows:

1. The North Dakota early childhood education council consists of:
 - a. A chairman appointed by the governor;
 - b. The superintendent of public instruction, or the superintendent's designee;
 - c. The state health officer, or the officer's designee;
 - d. The director of the department of human services, or the director's designee;
 - e. The North Dakota head start - state collaboration administrator, or the administrator's designee;
 - f. The commissioner of higher education, or the commissioner's designee;

- g. The commissioner of commerce, or the commissioner's designee;
- h. The chairman of the senate education committee, or the chairman's designee;
- ~~h.i.~~ The chairman of the house of representatives education committee, or the chairman's designee; and
- ~~i.~~ The following gubernatorial appointees:
- (1) The superintendent of a school district having at least one thousand students in average daily membership;
 - (2) The superintendent of a school district having fewer than one thousand students in average daily membership;
 - (3) The superintendent of a school district headquartered on a reservation or including reservation land within its boundaries;
 - (4) ~~The principal of a school district;~~
 - (5) ~~An individual employed as an elementary school teacher;~~
 - (6) An individual representing a non-religious-based provider of ~~preschool~~early childhood education;
 - ~~(7)~~(5) An individual representing a religious-based provider of ~~preschool~~early childhood education;
 - ~~(8)~~(6) An individual representing a center-based licensed child care provider;
 - ~~(9)~~(7) An individual representing a home-based licensed child care provider;
 - ~~(10)~~(8) An individual representing a reservation-based head start program;
 - ~~(11)~~(9) An elected member of a school board;
 - ~~(12)~~(10) The parent of a child not yet enrolled in elementary school; ~~and~~
 - ~~(13)~~(11) The parent of a child with ~~special needs~~disabilities not yet enrolled in elementary school; ~~and~~
 - (12) An individual representing children with disabilities.

SECTION 33. AMENDMENT. Section 15.1-37-03 of the North Dakota Century Code is amended and reenacted as follows:

15.1-37-03. Council - Duties.

The council shall:

1. Review the ~~delivery~~availability and provision of early childhood education, ~~care, and services~~ in this state;
2. ~~Conduct a needs assessment;~~

- ~~3. Review early childhood education standards and propose revisions to the standards as needed;~~
- ~~4. Review~~Identify opportunities for public and private sector collaboration in the delivery~~provision~~ of early childhood education, care, and services in this state;
- ~~5. Develop a comprehensive plan governing the delivery of early childhood education in this state; and~~
- ~~6.3.~~ Identify ways to assist with the recruitment and retention of individuals interested in working as providers of early childhood education, care, and services, including training and continuing education or professional development opportunities;
- ~~4.~~ Seek the advice and guidance of individuals who are uniquely familiar with the nature, scope, and associated challenges of providing early childhood education, care, and services in geographically and socioeconomically diverse settings, and develop recommendations pertaining to the short-term and longer-term improvement and expansion of early childhood education, care, and services in this state; and
- ~~5.~~ Provide a biennial report regarding its activities, findings and recommendations to the governor and the legislative council assembly.

SECTION 34. APPROPRIATION - SCHOOL DISTRICT RAPID ENROLLMENT GROWTH - GRANTS. There is appropriated out of any moneys in the oil and gas impact grant fund in the state treasury, not otherwise appropriated, the sum of \$5,000,000, or so much of the sum as may be necessary, to the superintendent of public instruction for the purpose of providing a grant to any school district that can demonstrate rapid enrollment growth, for the biennium beginning July 1, 2011, and ending June 30, 2013.

1. If the number of full-time equivalent students enrolled in a school district has increased by at least seven percent annually and if that increase is equal to at least twenty-five full-time equivalent students, as demonstrated by the district's September tenth fall enrollment report, the district is entitled to receive a grant equal to the per student payment provided for in section 15.1-27-04 multiplied by the actual increase in its full-time equivalent student enrollment.
2. If the amount of the appropriation provided for in this section is insufficient to meet the obligations of this section, the superintendent of public instruction shall prorate the payment based on the percentage of the total amount to which each school district is entitled.
3. The superintendent of public instruction may not expend more than \$2,500,000 in grants under this section during the first year of the biennium.
4. Any district that is precluded from receiving state aid under section 15.1-27-35.3 is not eligible to receive a grant under this section.

SECTION 35. APPROPRIATION - GEARING UP FOR KINDERGARTEN. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$625,000, or so much of the sum as may be necessary, to the superintendent of public instruction for the purpose of supporting the gearing up for kindergarten program provided by the North Dakota state university extension service, for the biennium beginning July 1, 2011, and ending June 30,

2013. The North Dakota state university extension service may use up to \$125,000 of the amount appropriated for administrative purposes.

SECTION 36. TRANSPORTATION GRANTS - DISTRIBUTION.

1. During each year of the 2011-13 biennium, the superintendent of public instruction shall calculate the payment to which each school district is entitled based on the state transportation formula as it existed on June 30, 2001, except that the superintendent shall provide reimbursement at the rate of:
 - a. One dollar and three cents per mile for schoolbuses having a capacity of ten or more passengers;
 - b. Forty-six cents per mile for vehicles having a capacity of nine or fewer passengers;
 - c. Forty-six cents per mile, provided:
 - (1) The student being transported is a student with a disability, as defined in chapter 15.1-32;
 - (2) The student's individualized education program plan requires that the student attend a public or a nonpublic school located outside the student's school district of residence;
 - (3) The student is transported by an adult member of the student's family;
 - (4) The student is transported in a vehicle furnished by the student's parents;
 - (5) The student's transportation is paid for by the student's parents; and
 - (6) The reimbursement does not exceed two round trips daily between the student's home and school.
 - d. Forty-six cents per mile, one way, provided:
 - (1) The student being transported resides more than two miles from the public school that the student attends;
 - (2) The student is transported by an adult member of the student's family;
 - (3) The student is transported in a vehicle furnished by the student's parents; and
 - (4) The student's transportation is paid for by the student's parents; and
 - e. Twenty-six cents per student for each one-way trip.
2. The superintendent of public instruction shall use the latest available student enrollment count in each school district in applying the provisions of subsection 1.
3. If any moneys provided for transportation payments in the grants transportation line item in the appropriation bill for the superintendent of public instruction, as approved by the sixty-second legislative assembly, remain after

application of the formula provided for in this section, the superintendent of public instruction shall prorate the remaining amounts according to the percentage of the total transportation formula amount to which each school district is entitled.

4. This section does not authorize the reimbursement of any costs incurred in providing transportation for student attendance at extracurricular activities or events.

SECTION 37. ISOLATED SCHOOLS - TRANSITION PAYMENTS.

1. 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:
 - a. For the 2011-12 and 2012-13 school years, 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;
 - b. For the 2013-14 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;
 - c. For the 2014-15 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
 - d. For the 2015-16 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.
2. Upon the closure of a school that met the definition of isolated under section 15.1-27-15, as it existed on June 30, 2011, the superintendent of public instruction shall cease to provide to the district the transition payments established under subsection 1.

SECTION 38. ALTERNATIVE MIDDLE SCHOOL - GRANTS.

1. During the second year of the 2011-13 biennium, the superintendent of public instruction shall expend up to \$300,000 from the grants - other grants line item in the appropriation bill for the superintendent of public instruction, as approved by the sixty-second legislative assembly, for the purpose of providing a grant to any school district that offers an alternative education program for students enrolled in grades six through eight.
2. In order to determine the amount that a school district may receive under this section, the superintendent of public instruction shall multiply by a factor of .15 the number of students in grades six through eight who are enrolled in an alternative education program for at least fifteen hours per week.
3. If the expenditure authorized in this section is insufficient for providing grants to all eligible school districts, the superintendent of public instruction shall prorate the grants based on the percentage of the total to which each school district is entitled.

SECTION 39. USE OF NEW MONEY - TEACHER COMPENSATION INCREASES - REPORTS TO THE LEGISLATIVE MANAGEMENT.

1. During the 2011-13 biennium, the board of each school district shall use an amount equal to at least seventy percent of all new money received by the district for per student payments to increase the compensation paid to teachers and to provide compensation to teachers who begin employment with the district on or after July 1, 2011.
2. For purposes of this section, the superintendent of public instruction shall calculate the amount of new money available during the 2011-13 biennium by:
 - a. Determining the total amount of dollars in the grants - state school aid line item in the 2011-13 appropriation bill for the superintendent of public instruction, as approved by the sixty-second legislative assembly and subtracting from that amount:
 - (1) Equity payments;
 - (2) Regional education association moneys and grants;
 - (3) PowerSchool acquisition, implementation, and utilization moneys; and
 - (4) Contingent distributions;
 - b. Determining the total amount of dollars in the grants - state school aid line item and in the grants - supplemental line item in the 2009-11 appropriation bill for the superintendent of public instruction, as approved by the sixty-first legislative assembly and subtracting from that amount:
 - (1) Equity payments;
 - (2) Regional education association moneys and grants;
 - (3) Technology support payments; and
 - (4) Contingent distributions; and
 - c. Subtracting the amount arrived at under subdivision b from the amount arrived at under subdivision a.
3. School districts providing educational services under a cooperative agreement approved by the superintendent of public instruction must, for purposes of this section, be treated as a single district.
4.
 - a. This section does not apply to a school district if the board of the school district, after a public hearing at which public testimony and documentary evidence are accepted, determines in its discretion and by an affirmative vote of two-thirds of the members of the board that complying with subsection 1 would place the school district in the position of having insufficient fiscal resources to meet the school district's other obligations.
 - b. Within ten days of the vote required by subdivision a, the school board shall notify the superintendent of public instruction of its action and shall file a report detailing the grounds for its determination and action.

- c. The superintendent of public instruction shall report all notices received under this subsection to the legislative management.

SECTION 40. EDUCATION FUNDING AND TAXATION COMMITTEE - CREATION - STUDY.

1. The education funding and taxation committee consists of the following eight members:
 - a. The house majority leader or the leader's designee selected from among the members of the house education committee or the house finance and taxation committee;
 - b. The house minority leader or the leader's designee selected from among the members of the house education committee or the house finance and taxation committee;
 - c. The senate majority leader or the leader's designee selected from among the members of the senate education committee or the senate finance and taxation committee;
 - d. The senate minority leader or the leader's designee selected from among the members of the senate education committee or the senate finance and taxation committee;
 - e. The chairman of the house education committee, or the chairman's designee;
 - f. The chairman of the house finance and taxation committee, or the chairman's designee;
 - g. The chairman of the senate education committee, or the chairman's designee; and
 - h. The chairman of the senate finance and taxation committee, or the chairman's designee.
2. The chairman of the legislative management shall select one from among the voting members to serve as the chairman of the committee.
3. The committee shall operate according to the statutes and procedure governing the operation of other legislative management interim committees.
4. The committee shall examine short-term and longer-term state and local involvement in funding elementary and secondary education. The committee shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the legislative management.

SECTION 41. ADULT EDUCATION - STUDY. During the 2011-12 interim, the legislative management shall consider studying the provision and funding of adult education. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the legislative management.

SECTION 42. ALTERNATIVE EDUCATION - MIDDLE SCHOOL - DATA COLLECTION - REPORT.

1. The superintendent of public instruction shall collect data regarding the provision of services to students in grades six through eight who are enrolled in an alternative education program for at least an average of fifteen hours per week. The data must include:
 - a. The number of school districts offering alternative education programs to students in grades six through eight;
 - b. The number of students in grades six through eight who are enrolled in alternative education programs;
 - c. The number of students in grades six through eight who are enrolled in alternative education programs and who are eligible for free or reduced lunches under the Richard B. Russell National School Lunch Act [42 U.S.C. 1751 et seq.];
 - d. The average number of hours per week that students in grades six through eight are spending in alternative education programs;
 - e. A quantification of the students' academic accomplishments; and
 - f. Any reductions in the number of students enrolled in alternative high schools.
2. Before October 1, 2012, the superintendent of public instruction shall report the data to the legislative management.

SECTION 43. REPEAL. Section 5 of this Act and sections 15.1-18.2-01, 15.1-18.2-02, and 15.1-18.2-03 of the North Dakota Century Code are repealed.

SECTION 44. REPEAL. Section 15.1-27-15 of the North Dakota Century Code is repealed.

SECTION 45. EFFECTIVE DATE. Section 22 of this Act becomes effective on July 1, 2012. Section 43 of this Act becomes effective on July 1, 2013.

SECTION 46. EFFECTIVE DATE - EXPIRATION DATE. Section 23 of this Act is effective on July 1, 2013, through June 30, 2015, and after that date is ineffective.

SECTION 47. EMERGENCY. Sections 27 and 40 of this Act are declared to be an emergency measure.

Approved May 10, 2011
Filed May 11, 2011

CHAPTER 148

HOUSE BILL NO. 1030

(Legislative Management)
(Education Committee)

AN ACT to amend and reenact section 15.1-27-23 of the North Dakota Century Code, relating to gubernatorial waivers of required class rescheduling.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁶² **SECTION 1. AMENDMENT.** Section 15.1-27-23 of the North Dakota Century Code is amended and reenacted as follows:

15.1-27-23. Weather or other emergency conditions - Closure of schools - State payments to school districts.

1. If because of severe weather or other emergency conditions a public school or school district remains closed or provides less than a full day of instruction, the public school or school district shall make every effort to reschedule classes so that students receive at least one hundred ~~seventy-three~~seventy-five full days of instruction.
2. Any public school or school district for which the rescheduling of classes would create undue hardship may request that, for purposes of calculating state aid payments to the ~~school~~ of school district, the governor waive the rescheduling in whole or in part.
3. The governor may not grant a waiver for less than a full day of instruction. However, if a public school or school district closes for only a portion of its regular schoolday, the hours during which the school or school district is closed may be added together to determine the number of additional full days of instruction that may be waived under this section.

Approved April 19, 2011
Filed April 20, 2011

⁶² Section 15.1-27-23 was also amended by section 27 of Senate Bill No. 2150, chapter 147.

CHAPTER 149

HOUSE BILL NO. 1074

(Representatives D. Johnson, Hanson, Wall)
(Senators Luick, Robinson, Oehlke)

AN ACT to amend and reenact subsection 1 of section 15.1-29-14 and section 15.1-32-19 of the North Dakota Century Code, relating to school district reimbursement for boarding care costs; to provide an effective date; to provide an expiration date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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.

SECTION 2. AMENDMENT. Section 15.1-32-19 of the North Dakota Century Code is amended and reenacted as follows:

15.1-32-19. 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 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 ~~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, 2011.

SECTION 4. EXPIRATION DATE. This Act is effective through June 30, 2013, and after that date is ineffective.

SECTION 5. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 28, 2011
Filed April 28, 2011

CHAPTER 150

HOUSE BILL NO. 1073

(Representatives Mueller, D. Johnson, Rust, Wall)
(Senators Heckaman, G. Lee)

AN ACT to amend and reenact sections 15.1-32-01, 15.1-32-12, 15.1-32-13, and 15.1-32-15 of the North Dakota Century Code, relating to special education.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁶³ **SECTION 1. AMENDMENT.** Section 15.1-32-01 of the North Dakota Century Code is amended and reenacted as follows:

15.1-32-01. Definitions.

As used in this chapter:

1. "Related services" means transportation and developmental and corrective or supportive services required to assist a student with disabilities to benefit from special education.
2. "Special education" means instruction designed to meet the needs of a student with disabilities, transportation, and corrective and supporting services required to assist a student with disabilities in taking advantage of, or responding to, educational programs and opportunities.
3. "Student who is gifted" means an individual who is identified by qualified professionals as being capable of high performance and who needs educational programs and services beyond those normally provided in a regular education program.
4. a. "Student with a disability" means an individual who is at least three years of age but who has not reached the age of twenty-one before September first of the year in which the individual turns twenty-one and who requires special education and related services because of:
 - (1) ~~Mental retardation~~ An intellectual disability;
 - (2) A hearing impairment, including deafness;
 - (3) Deaf-blindness;
 - (4) A speech or language impairment;
 - (5) A visual impairment, including blindness;
 - (6) An emotional disturbance;

⁶³ Section 15.1-32-01 was also amended by section 4 of Senate Bill No. 2142, chapter 207.

- (7) An orthopedic impairment;
- (8) Autism;
- (9) A traumatic brain injury;
- (10) Other health impairment; or
- (11) A specific learning disability.

- b. "Student with a disability" includes a student age eighteen through twenty-one who is incarcerated in an adult correctional facility and who, in the last educational placement prior to incarceration, was identified as being a student with a disability and did not have an individualized education program or was identified as being a student with a disability and had an individualized education program.

SECTION 2. AMENDMENT. Section 15.1-32-12 of the North Dakota Century Code is amended and reenacted as follows:

15.1-32-12. Multidisciplinary teams - Individualized education programs - Services plans.

If a school district has evidence of a student's disability, the school district shall convene a multidisciplinary team ~~consisting of. The team must include~~ educational professionals, ~~medical professionals,~~ and the student's parent ~~and may include medical professionals. The team shall~~ share assessment information related to the student's suspected disability. If necessary, the team shall develop an individualized education program or services plan and make recommendations for the delivery of special education and related services to the student.

SECTION 3. AMENDMENT. Section 15.1-32-13 of the North Dakota Century Code is amended and reenacted as follows:

15.1-32-13. Related services - Insurance options - School district responsibility.

Each school district shall ~~require that all family insurance options be exhausted in paying the costs of determining a student's medically related disability, obtain parental consent before accessing any family insurance options, whether public or private, to pay for the cost of determining a student's medically related disability and in paying to pay~~ for the provision of related services to the student, provided there is no financial loss to the student or the student's parent. The school district is responsible for all costs not covered by the family's insurance.

SECTION 4. AMENDMENT. Section 15.1-32-15 of the North Dakota Century Code is amended and reenacted as follows:

15.1-32-15. Student with disabilities - Attendance at private institution or out-of-state public school.

- 1. If in the opinion of an individualized education program team or an education services team a student is unable to attend a public school in the student's school district of residence because of a ~~physical disability, a mental disability, or a learning~~ disability, and if no public school in the state will accept the

student and provide the necessary services, the student's school district of residence shall contract with:

- a. A private, accredited, nonsectarian, nonprofit institution that is located within or outside of this state and which has the proper facilities for the education of the student; or
 - b. A public school located outside of this state that has proper facilities for the education of the student.
2. The superintendent of public instruction shall approve in advance the terms of the contract and the services to be provided by the admitting institution or school.
 3. The contract must provide that the student's school district of residence is liable for the cost of educating the student.
 4. A student who receives services under this section is deemed to be enrolled in the student's school district of residence for purposes of determining average daily membership.

Approved March 28, 2011

Filed March 28, 2011

CHAPTER 151

HOUSE BILL NO. 1066

(Representatives Rust, Sanford, Wieland)
(Senators Andrist, Miller)

AN ACT to amend and reenact sections 15.1-36-01, 15.1-36-04, and 18-12-04 of the North Dakota Century Code, relating to thresholds and criteria for school district construction projects; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-36-01 of the North Dakota Century Code is amended and reenacted as follows:

15.1-36-01. (~~Effective through June 30, 2014~~) School construction projects - Approval.

1. Notwithstanding the powers and duties of school boards provided by law, the superintendent of public instruction shall approve the construction, purchase, repair, improvement, modernization, or renovation of any public school building or facility before commencement of the project if the cost of the project, as estimated by the school board, is in excess of forty one hundred thousand dollars.
2. The superintendent of public instruction may not approve a project unless the school district proposing the project:
 - a. Demonstrates the need for the project and the educational utility of the project or demonstrates potential utilization of the project by a future reorganized school district; ~~and~~
 - b. In the case of new construction or a renovation affecting more than fifty percent of an existing structure's square footage, demonstrates that circumstances within the district are likely to result in a stable or increasing student population; and
 - c. Demonstrates the capacity to pay for the project under rules adopted by the superintendent of public instruction pursuant to chapter 28-32.
3. a. If the superintendent of public instruction denies the project, the school board may appeal the superintendent's decision to the state board of public school education. In considering the appeal, the state board shall review:
 - (1) The need for the project;
 - (2) The educational utility of the project;
 - (3) The potential use of the project by a future reorganized school district;
 - (4) The capacity of the district to pay for the project; and

- (5) Any other objective factors relative to the appeal.
- b. The decision of the state board is final.
4. ~~This section does not apply to any construction, purchase, repair, improvement, renovation, or modernization required as part of a plan of correction approved by the state fire marshal under section 15.1-06-09 unless the cost of the improvements exceeds seventy five thousand dollars.~~
5. This section is applicable to any construction, purchase, repair, improvement, renovation, or modernization, even if the school board pays for the project in whole or in part with moneys received on account of the leasing of lands acquired by the United States for flood control, navigation, and allied purposes in accordance with 33 U.S.C. 701c-3 or in accordance with moneys received under the American Recovery and Reinvestment Act of 2009.
- 6.5. For purposes of this chapter, "facility" includes a public school parking lot, public school athletic complex, or any other improvement to real property owned by the school district.

~~(Effective after June 30, 2011) School construction projects—Approval.~~

1. ~~Notwithstanding the powers and duties of school boards provided by law, the superintendent of public instruction shall approve the construction, purchase, repair, improvement, modernization, or renovation of any public school building or facility before commencement of the project if the cost of the project, as estimated by the school board, is in excess of twenty five thousand dollars.~~
2. ~~The superintendent of public instruction may not approve a project unless the school district proposing the project:~~
- a. ~~Demonstrates the need for the project, the educational utility of the project, and the ability to sustain a stable or increasing student enrollment for a period of time at least equal to the anticipated usable life of the project or demonstrates potential utilization of the project by a future reorganized school district; and~~
- b. ~~Demonstrates the capacity to pay for the project under rules adopted by the superintendent of public instruction pursuant to chapter 28-32.~~
3. a. ~~If the superintendent of public instruction denies the project, the school board may appeal the superintendent's decision to the state board of public school education. In considering the appeal, the state board shall review:~~
- (1) ~~The need for the project;~~
- (2) ~~The educational utility of the project;~~
- (3) ~~The school district's ability to sustain a stable or increasing student enrollment for a period of time at least equal to the anticipated usable life of the project;~~
- (4) ~~The potential use of the project by a future reorganized school district;~~

~~(5) The capacity of the district to pay for the project; and~~

~~(6) Any other objective factors relative to the appeal.~~

b. The decision of the state board is final.

4. ~~This section does not apply to any construction, purchase, repair, improvement, renovation, or modernization required as part of a plan of correction approved by the state fire marshal under section 15.1-06-09 unless the cost of the improvements exceeds seventy five thousand dollars.~~
5. ~~For purposes of this chapter, "facility" includes a public school parking lot, public school athletic complex, or any other improvement to real property owned by the school district.~~

SECTION 2. AMENDMENT. Section 15.1-36-04 of the North Dakota Century Code is amended and reenacted as follows:

15.1-36-04. Evidences of indebtedness.

The board of a school district may issue and sell evidences of indebtedness under chapter 21-03 to finance the construction or improvement of a project approved under this chapter. The principal amount of the loan and the evidences of indebtedness to repay the loan may not exceed the lesser of thirty percent of the school district's taxable valuation or five million dollars ~~loan amount for which the district is eligible under this chapter~~. Evidences of indebtedness issued under this chapter constitute a general obligation of the school district.

SECTION 3. AMENDMENT. Section 18-12-04 of the North Dakota Century Code is amended and reenacted as follows:

18-12-04. Employment of registered architects and engineers.

All plans and specifications for construction, except agricultural sheds and barns, the monetary worth of which is one hundred thousand dollars or more, must be prepared by and the construction administration and construction observation services supervised by architects or engineers registered in this state. The architect or engineer is legally responsible for designing the building in accordance with the provisions of this chapter of adequate strength so as to resist fire, and constructing the building in a workmanlike manner, according to the plans and specifications as approved. ~~All School district projects for which the tax money exceeds two thousand dollars must be submitted to the department of public instruction or are subject to the approval requirements of section 15.1-36-01 and projects involving institutions of higher education under the control of the state board of higher education for are subject to the approval requirements of chapter 15-10.~~

SECTION 4. EFFECTIVE DATE. This Act becomes effective on July 1, 2011.

SECTION 5. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 4, 2011
Filed April 4, 2011