

**HOUSE BILL NO. 1045**

Introduced by

Legislative Council

(Education Services Committee)

1 A BILL for an Act to create and enact chapters 15.1-13, 15.1-14, 15.1-15, 15.1-16, 15.1-17,  
2 15.1-18, 15.1-20, 15.1-21, 15.1-22, 15.1-23, 15.1-27, 15.1-28, 15.1-29, 15.1-30, 15.1-31,  
3 15.1-32, 15.1-33, 15.1-34, 15.1-35, and 15.1-36 of the North Dakota Century Code, relating to  
4 elementary and secondary education; to repeal chapters 15-21.1, 15-29, 15-34.1, 15-34.2,  
5 15-35, 15-36, 15-37, 15-38, 15-38.1, 15-38.2, 15-40.1, 15-40.2, 15-40.3, 15-41, 15-43, 15-44,  
6 15-45, 15-47, 15-54, 15-59, 15-59.2, 15-59.3, and 15-60 of the North Dakota Century Code,  
7 relating to elementary and secondary education provisions addressed in the creation of North  
8 Dakota Century Code title 15.1; to provide a penalty; and to provide a continuing appropriation.

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

10 **SECTION 1.** Chapter 15.1-13 of the North Dakota Century Code is created and  
11 enacted as follows:

12 **15.1-13-01. Definitions.** For purposes of this chapter:

- 13 1. "Administrator" means an individual who holds an administrator's credential and  
14 who is employed by the board of a school district for the primary purpose of  
15 providing administrative services to the schools of the district. The term includes a  
16 school district superintendent, an assistant or associate school district  
17 superintendent, a school principal, an assistant or associate school principal, a  
18 special education director, a director of a multidistrict special education unit, a  
19 vocational education director, and a director of a vocational technology center.  
20 The term may include an athletic or activity director who meets the requirements of  
21 this subsection.
- 22 2. "Board" means the education standards and practices board.

1           3. "Profession of teaching" means the provision in a public school district of teaching  
2           services, administrative services, or other services, which require licensure by the  
3           education standards and practices board.

4           **15.1-13-02. Education standards and practices board - Membership.**

- 5           1. The governor shall appoint to the education standards and practices board:
- 6           a. Four individuals who are public school classroom teachers;
- 7           b. One individual who is a nonpublic school classroom teacher;
- 8           c. One individual who is a school board member;
- 9           d. Two individuals who are administrators; and
- 10          e. One dean of a college of education or chairman of a department of education.
- 11          2. The superintendent of public instruction or the superintendent's designee shall  
12          serve as a nonvoting ex officio member.

13          **15.1-13-03. Board compensation.** Each member of the board is entitled to receive  
14          compensation in the amount of twenty-five dollars per day and to reimbursement for expenses  
15          as provided by law for other state officers while attending meetings or performing duties  
16          directed by the board. A member of the board may not lose the member's regular salary and  
17          may not be required to refuse the compensation to which the member is entitled under this  
18          section for serving on the board.

19          **15.1-13-04. Term of office - Vacancy.** The term of office for a member of the board is  
20          three years, beginning on July first of the year of appointment. No person may serve for more  
21          than two consecutive terms. If a vacancy occurs, it must be filled for the duration of the  
22          unexpired term in the same manner as an original appointment.

23          **15.1-13-05. Officers.** The board annually shall select a chairman and a vice chairman.  
24          The executive director of the board or the executive director's designee shall serve as  
25          secretary.

26          **15.1-13-06. Meetings - Notice.** The chairman of the board shall set the date and time  
27          of the board meetings and shall provide at least ten days' notice of the meeting to all board  
28          members. The chairman shall call a special meeting when requested to do so, in writing, by a  
29          majority of the board members.

30          **15.1-13-07. Quorum - Revocation requirement.**

- 31          1. A majority of the board constitutes a quorum.

- 1           2.    Except as otherwise provided in this section, a majority of the quorum at any
- 2                   meeting has the authority to act upon any matter properly before the board.
- 3           3.    At least five members of the board must consent to the revocation of an individual's
- 4                   teaching license.

5           **15.1-13-08. Board duties.** The board shall:

- 6           1.    Supervise the licensure of teachers.
- 7           2.    Set standards for and approve teacher preparation programs.
- 8           3.    Seek the advice of teachers, administrators, school board members, teacher
- 9                   education professors, and other interested citizens in developing and updating
- 10                  codes or standards of ethics, conduct, professional performance, and professional
- 11                  practices.
- 12           4.    Adopt, in accordance with chapter 28-32, codes or standards of ethics, conduct,
- 13                  professional performance, and professional practices.
- 14           5.    Make recommendations for the inservice education of individuals engaged in the
- 15                  profession of teaching.
- 16           6.    Issue minor equivalency endorsements.
- 17           7.    Appoint an executive director to serve at its discretion.
- 18           8.    Authorize the executive director to employ personnel, subject to approval by the
- 19                  board.

20           **15.1-13-09. Board powers.** The board may:

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

28           **15.1-13-10. Criteria for teacher licensure.**

- 29           1.    The board shall establish by rule the criteria for teacher licensure and the process
- 30                  for issuing teaching licenses. The criteria must include considerations of character,
- 31                  adequate educational preparation, and general fitness to teach.

1           2.    The board may not require a teacher who graduated from an accredited teacher  
2                    education program on or before September 1, 1980, to earn any college credits in  
3                    native American or other multicultural courses as a condition of licensure or license  
4                    renewal.

5           3.    This section does not affect the validity of teaching certificates in effect on July 31,  
6                    2001.

7           4.    This section does not affect the qualifications for vocational education certificates,  
8                    as otherwise established by law.

9           **15.1-13-11. Application and licensing fees.**

10          1.    The board may set and charge a fee for:

11                a.    Filing an application for a teaching license.

12                b.    Issuing a teaching license.

13          2.    Any fee collected by the board must be deposited and disbursed in accordance  
14                    with section 54-44-12.

15          **15.1-13-12. Teaching license - Period of effectiveness.** A teaching license issued by  
16 the board is effective for at least one school year, unless suspended or revoked by the board.  
17 This section does not apply to provisional teaching licenses issued by the board under section  
18 15.1-13-13.

19          **15.1-13-13. Provisional teaching license - Period of effectiveness - Renewal.** The  
20 board may issue a provisional teaching license to an applicant awaiting completion of the  
21 background check required by section 15.1-13-14. The provisional license is valid for a period  
22 of forty days and may be renewed with the approval of the board. The board may adopt rules  
23 governing the issuance of a provisional teaching license. An individual applying for a  
24 provisional teaching license may be charged a fee established by the board. However, an  
25 individual applying for the renewal of a provisional teaching license may not be charged a fee.

26          **15.1-13-14. Initial licensure of teachers - Background check.** The board shall  
27 check, or cause to be checked, the background of each applicant for initial licensure as a  
28 teacher. The board shall require each applicant for licensure to file a complete set of the  
29 applicant's fingerprints, taken by a law enforcement officer, and all other information necessary  
30 to complete a statewide and nationwide criminal history check with the bureau of criminal  
31 investigation for state processing and filing with the federal bureau of investigation for federal

1 processing. All costs associated with the background check and with obtaining and processing  
2 the fingerprints are the responsibility of the applicant. Criminal history records provided to the  
3 board pursuant to this section are confidential and closed to the public and may only be used by  
4 the board for determining an applicant's eligibility for licensure and obtaining documentation to  
5 support a denial of licensure.

6 **15.1-13-15. Teaching license - Application - Oath or affirmation.**

7 1. Each applicant for a teaching license shall subscribe to the following oath or  
8 affirmation:

9 I do solemnly swear (or affirm) that I will support the Constitution of the  
10 United States and the Constitution of the state of North Dakota, and that I will  
11 faithfully discharge the duties of my position, according to the best of my  
12 ability.

13 2. The applicant shall execute the oath or affirmation in duplicate. One copy of the  
14 oath or affirmation must be filed with the board when the applicant applies for a  
15 teaching license. The applicant shall retain the other copy.

16 3. The board may not issue a license to teach unless a duly witnessed or notarized  
17 oath or affirmation has been filed with the board.

18 **15.1-13-16. Teaching license - Student transcript.** A student who has met all the  
19 criteria necessary to receive a teaching license, but who has not graduated from a college or  
20 university, may request that the college or university provide a copy of the student's completed  
21 transcript to the board or to a comparable entity in another state. Within ten days of the request  
22 by the student, the college or university shall provide a copy of the transcript showing that the  
23 student has met all the criteria necessary to receive a teaching license except graduation. The  
24 transcript must indicate areas in which the student has a major or minor.

25 **15.1-13-17. Teaching license - Requirements - Exceptions.**

26 1. An individual may not engage in the profession of teaching unless:

- 27 a. The individual holds a teaching license issued by the board; or  
28 b. The individual is approved to teach by the board.

29 2. An individual may be approved to teach by the board only if the individual has  
30 previously held a North Dakota teaching certificate or license, holds a teaching

1 certificate or license issued by another state, or has filed a completed application  
2 for licensure with the board.

3 3. The board shall adopt rules establishing the terms and conditions under which an  
4 individual may be approved to teach, as provided for in this section. The terms and  
5 conditions may include the payment of a fine to the board, enrollment in and  
6 completion of continuing education courses, and submission of a completed  
7 application for licensure by a date certain.

8 **15.1-13-18. Teaching license - Presentation to business manager.** Before being  
9 employed to teach, an individual shall present to the school district business manager a  
10 teaching license or other evidence of approval to teach issued by the board.

11 **15.1-13-19. Teaching license - Expiration.** Notwithstanding any other law, an  
12 individual whose teaching license expires within the final six weeks of a school year may  
13 continue teaching under the expired license until the completion of the school year.

14 **15.1-13-20. Interim reciprocal teaching license - Period of validity.**

15 1. The board shall grant an interim reciprocal teaching license in accordance with  
16 sections 15.1-18-02 and 15.1-18-03 to an individual who holds a regular teaching  
17 license or certificate from another state, provided:

18 a. The individual's licensure or certification is based upon a minimum of a  
19 bachelor's degree with a major that meets the issuing state's requirements in  
20 elementary education, middle-level education, or a content area taught at a  
21 public high school;

22 b. The individual's licensure or certification is based upon the completion of a  
23 professional education sequence from a state-approved teacher education  
24 program and includes supervised student teaching;

25 c. The individual submits to a background check as required of initial applicants  
26 by this chapter;

27 d. The background check reveals nothing for which a North Dakota applicant  
28 would be denied initial licensure; and

29 e. The individual submits a plan for meeting all requirements necessary to  
30 become a licensed teacher in this state.

31 2. An interim reciprocal license granted under this section is valid for two years.

- 1           3.    The individual shall submit evidence of progress on the plan required by  
2                   subsection 1 to the board prior to renewal of the interim reciprocal license.
- 3           4.    The board may renew the interim reciprocal license for one additional two-year  
4                   period if the board finds that the individual has demonstrated satisfactory progress.
- 5           5.    Notwithstanding any other law, an interim reciprocal license granted under this  
6                   section is the equivalent of a teaching license granted under this chapter.

7           **15.1-13-21. Reciprocal acceptance of teaching licenses.** The board shall pursue  
8 the reciprocal acceptance of teaching licenses issued by other states.

9           **15.1-13-22. Licensure of North Dakota American Indian language instructors.** The  
10 board may license an individual as an instructor of North Dakota American Indian languages  
11 and culture if the individual is recommended for licensure to teach North Dakota native  
12 languages by an indigenous language board created by a tribal government in this state and if  
13 the individual:

- 14           1.    Displays competence in North Dakota American Indian languages and culture and  
15                   has successfully completed a three-semester-hour course in classroom instruction  
16                   at a tribal college or other institution of higher education; or
- 17           2.    Holds a baccalaureate degree and has knowledge of and experience in North  
18                   Dakota American Indian languages and culture.

19           **15.1-13-23. School guidance and counseling services - Providers.** Notwithstanding  
20 any other law, guidance and counseling services at the elementary and secondary school level  
21 may be provided by a person holding a graduate degree in counseling from a state-approved  
22 school counseling program, with coursework and an internship in school counseling, as  
23 required for all counselors by the superintendent of public instruction, provided the person has a  
24 North Dakota teaching license or will obtain one within seven years from the date of first  
25 employment under this section. The board shall adopt rules relating to the background check of  
26 a person hired under this section. All costs associated with a background check are the  
27 responsibility of the person being hired. The board shall monitor a person hired under this  
28 section to ensure that the person annually completes at least one-seventh of the total credits  
29 required for that person to obtain a teaching license, as determined at the time of employment  
30 under this section.

31           **15.1-13-24. Complaints against teachers or administrators.**

- 1           1. Any person may file with the board a complaint against a teacher or an  
2            administrator. The complaint must state the claims or charges and it must be  
3            signed. The complaint may include supporting documentation.
- 4           2. Upon receiving the complaint, the board shall serve a copy of the complaint and  
5            any supporting documentation upon the individual personally or by certified mail.
- 6           3. The individual has twenty days from the date the individual receives the complaint  
7            within which to file a response. The response may include supporting  
8            documentation.
- 9           4. If the individual files a timely response, the board shall meet to review the  
10           complaint, the response, and any documentation submitted by the parties, but may  
11           not accept testimony.
- 12          5. Based on the complaint, the response, and the documentation submitted in  
13           accordance with this section, the board may:
  - 14           a. Dismiss the complaint as unfounded; or
  - 15           b. (1) Determine there is a reasonable basis to believe the claims or charges  
16               are true and subject to action by the board under this chapter;
  - 17               (2) File a formal complaint against the individual in accordance with  
18               chapter 28-32; and
  - 19               (3) Schedule and hold a public hearing on the complaint in accordance with  
20               chapter 28-32.
- 21          6. If the individual fails to file a timely response, the board shall determine whether  
22           the individual's failure to file a timely response constitutes an admission of the  
23           allegations in the complaint and whether the individual's teaching license should be  
24           subject to action by the board. If the board determines that the individual's failure  
25           to file a timely response is an admission of the allegations in the complaint and that  
26           the individual's teaching license should be subject to action by the board, the board  
27           shall hold a hearing in accordance with chapter 28-32 to take any appropriate  
28           action.

29           **15.1-13-25. Teaching license - Action by board - Causes.**



- 1           1. After holding a public hearing in accordance with chapter 28-32, the board may
- 2           issue a written warning or reprimand to the individual, suspend the individual's
- 3           teaching license, or revoke the individual's teaching license if:
- 4           a. The individual obtained a license by means of fraud, misrepresentation, or
- 5           concealment of facts.
- 6           b. The board becomes aware of any fact or circumstance that would have
- 7           caused the board to deny licensure had the board known of the fact or
- 8           circumstance at the time of initial licensure.
- 9           c. The individual is incompetent, immoral, intemperate, or cruel.
- 10          d. The individual has been convicted of, has pled guilty to, or has pled
- 11          nolo contendere to an offense deemed by the board to have a direct bearing
- 12          upon an individual's ability to serve as a teacher or an administrator.
- 13          e. The board believes that the individual, having been convicted of an offense,
- 14          has not been sufficiently rehabilitated under section 12.1-33-02.1.
- 15          f. The individual has refused to perform the duties of a teacher or an
- 16          administrator.
- 17          g. The individual has breached a contract with a school district.
- 18          h. The individual has violated this chapter or any rule adopted by the board.
- 19          2. Any action of the board taken under this section may be appealed to the district
- 20          court of Burleigh County in accordance with chapter 28-32.

21           **15.1-13-26. Crimes against a child and sexual offenses - Denial of or immediate**  
22 **revocation of teaching license.**

- 23          1. The board shall deny an application for a teaching license and shall immediately
- 24          revoke the teaching license of an individual who has been found guilty of a crime
- 25          against a child or a sexual offense.
- 26          2. An individual who is denied a teaching license or who has had a teaching license
- 27          revoked under subsection 1 may file a request with the board for a due process
- 28          hearing under chapter 28-32. The hearing must be held within ten days of the
- 29          request. The scope of the hearing is limited to determining whether the individual
- 30          was convicted of a crime against a child or a sexual offense and whether the
- 31          conviction has been overturned on appeal.

- 1           3. A final decision denying a teaching license or revoking a teaching license under  
2           this section is appealable pursuant to chapter 28-32. A court may not stay the  
3           decision pending an appeal. A court shall affirm the decision denying a teaching  
4           license or revoking a teaching license unless the court finds that the individual was  
5           not convicted of a crime against a child or a sexual offense or that the conviction  
6           was overturned on appeal.
- 7           4. The board may impose a fee against a licensee as reimbursement for all or part of  
8           the costs of administrative actions that result in disciplinary action against the  
9           licensee under this section.
- 10          5. As used in this section:
- 11           a. "Conviction" means a finding of guilt, a guilty plea, a plea of no contest, a plea  
12           of nolo contendere, a judgment of conviction even though the court  
13           suspended execution of sentence in accordance with subsection 3 of section  
14           12.1-32-02, or a deferred imposition of sentence in accordance with  
15           subsection 4 of section 12.1-32-02 or an equivalent statute. The term does  
16           not include a finding of guilt overturned on appeal.
- 17           b. "Crime against a child" means violation of section 12.1-16-01, 12.1-16-02,  
18           12.1-16-03, 12.1-16-04, 12.1-17-01.1, 12.1-17-02, 12.1-17-03, 12.1-17-04,  
19           12.1-17-05, 12.1-17-06, 12.1-17-07, 12.1-17-07.1, 12.1-17-10, 12.1-18-01,  
20           12.1-18-02, 12.1-18-03, 12.1-29-01, 12.1-29-02, or 12.1-29-03, or an  
21           equivalent ordinance, in which the victim is a minor or is otherwise of the age  
22           required for the act to be a crime or an attempt to commit these offenses.
- 23           c. "Sexual offense" means a violation of section 12.1-20-03, 12.1-20-03.1,  
24           12.1-20-04, 12.1-20-05, 12.1-20-06, 12.1-20-07, 12.1-20-11, or 12.1-22-03.1,  
25           or chapter 12.1-27.2, or an equivalent ordinance.

26           **15.1-13-27. Suspension or revocation of teaching license - Notice.**

- 27           1. If an individual's teaching license is suspended or revoked, the board shall notify  
28           the individual, the business manager of the school district employing the individual,  
29           each county superintendent of schools in the state, and the superintendent of  
30           public instruction.

- 1           2.    Upon being notified that one's teaching license has been suspended or revoked,  
2                    the individual shall return the license to the education standards and practices  
3                    board. If the individual fails to return the license within the time period set by the  
4                    board, the board may publish notice of the suspension or revocation in the official  
5                    newspaper of the county in which the individual was employed.

6           **15.1-13-28. Teaching license - Effect of revocation.** The revocation of an  
7 individual's teaching license results in the immediate termination of the individual's employment  
8 by a school district. The school district shall, however, compensate the individual for services  
9 rendered only until such time as the notice of revocation is received by the district.

10          **15.1-13-29. Teaching license of administrator - Determinations by subcommittee.**

- 11          1.    Notwithstanding the provisions of any other law, when a complaint regarding an  
12                    administrator is filed with the board, all actions and determinations provided for in  
13                    this chapter must be made by a subcommittee of the board.
- 14          2.    The subcommittee must consist of the two board members who are administrators,  
15                    the board member who is a school board member, and two board members who  
16                    are teachers and who have been appointed to the subcommittee by the board.
- 17          3.    The subcommittee shall convene at a regular or special meeting of the board.
- 18          4.    The subcommittee shall select its own chairman and vice chairman and the  
19                    executive director of the board, or the director's designee, shall serve as its  
20                    secretary.
- 21          5.    a.    A majority of the subcommittee constitutes a quorum for purposes of this  
22                    section.
- 23                b.    Except as otherwise provided in this section, a majority of the quorum has the  
24                    authority to act on any matter properly before the subcommittee.
- 25                c.    At least three members of the subcommittee must consent to the revocation  
26                    of an administrator's teaching license.
- 27          6.    Any action or determination by the subcommittee regarding the teaching license of  
28                    an administrator:
- 29                a.    Must be taken or made by the same process and on the same grounds as  
30                    provided in sections 15.1-13-24, 15.1-13-25, and 15.1-13-26;

- 1           b. Has the same force and effect as an action or determination by the education
- 2                     standards and practices board;
- 3           c. May not be modified by the board; and
- 4           d. May be appealed under this chapter in the same manner as actions or
- 5                     determinations by the board.

6           **15.1-13-30. Venue for legal actions.** Burleigh County, North Dakota, is the venue for  
7 all actions to which the education standards and practices board is a party.

8           **15.1-13-31. Conviction of individual holding teaching license - Written**  
9 **notification.** A state's attorney shall provide written notification to the board when an individual  
10 holding a teaching license is convicted of a felony or a class A misdemeanor.

11           **SECTION 2.** Chapter 15.1-14 of the North Dakota Century Code is created and  
12 enacted as follows:

13           **15.1-14-01. School district superintendent - Duties.** A school district superintendent  
14 shall:

- 15           1. Supervise the general operation of the school district.
- 16           2. Supervise the provision of education to students.
- 17           3. Visit the schools of the district.
- 18           4. Supervise school personnel.
- 19           5. Prepare and deliver reports requested by the board of the district.
- 20           6. Perform any other duties requested by the board.

21           **15.1-14-02. School district superintendent - Bond.** A school district superintendent  
22 shall furnish to the school district a bond in an amount fixed by the board of the school district  
23 and equal to at least the maximum amount of money that may be subject to the  
24 superintendent's control at any one time. The bond must be conditioned for the faithful  
25 discharge of the superintendent's duties, including the maintenance of accurate financial  
26 records and the safekeeping and deliverance of all school property and funds that come under  
27 the superintendent's control. The bond must be written through the state bonding fund and  
28 must be obtained at the expense of the school district.

29           **15.1-14-03. School district superintendent - Evaluation.**

- 30           1. Before December fifteenth of each year, the board of a school district shall conduct  
31                     a formative evaluation of the superintendent's performance.

- 1           2. Before March fifteenth of each year, the board shall conduct a formal evaluation of
- 2           the superintendent's performance. The board shall place a copy of the evaluation
- 3           report in the superintendent's file and shall provide a copy of the evaluation report
- 4           to the superintendent.
- 5           3. If the board finds the superintendent's performance to be unsatisfactory in any
- 6           area, the board shall detail its findings regarding the superintendent's performance
- 7           in the report and shall make recommendations.
- 8           4. Upon receiving the report, the superintendent may provide a written response to
- 9           the board. The board shall place the superintendent's written response in the
- 10          superintendent's personnel file.
- 11          5. The board shall meet with the superintendent to discuss the evaluation.

12           **15.1-14-04. School district superintendent - Grounds for dismissal.** The board of a  
13 school district may dismiss a school district superintendent prior to the expiration of the  
14 individual's contract for any of the following causes:

- 15          1. Immoral conduct.
- 16          2. Insubordination.
- 17          3. Conviction of a felony.
- 18          4. Conduct unbecoming the position of superintendent.
- 19          5. Failure to perform contracted duties without justification.
- 20          6. Gross inefficiency that the superintendent has failed to correct after written notice.
- 21          7. Continuing physical or mental disability that renders the superintendent unfit or
- 22          unable to perform the superintendent's duties.

23           **15.1-14-05. School district superintendent - Discharge for cause - Notice of**  
24 **hearing - Legal expenses.**

- 25          1. If the board of a school district intends to discharge a superintendent for cause
- 26          prior to the expiration of the superintendent's contract, the board shall:
  - 27           a. Provide the superintendent with a written description of the reasons for the
  - 28           discharge; and
  - 29           b. Provide the superintendent with written notice specifying the date and time at
  - 30           which the board will conduct a hearing regarding the discharge.

- 1           2.    If the superintendent chooses to be accompanied by an attorney, the legal  
2                    expenses attributable to that representation are the responsibility of the  
3                    superintendent.

4           **15.1-14-06. School district superintendent - Discharge for cause - Hearing.**

- 5           1.    At the hearing, the superintendent may produce evidence and witnesses to rebut  
6                    any reasons given by the board of the school district for its discharge of the  
7                    superintendent.
- 8           2.    The hearing must be conducted in accordance with chapter 28-32.
- 9           3.    All witnesses are subject to cross-examination.
- 10          4.    Unless otherwise agreed to by the board and the superintendent, the hearing must  
11                   be conducted as an executive session of the board, except that:
- 12                  a.    The superintendent may invite to the hearing any two representatives to  
13                        speak on behalf of the superintendent and may invite the superintendent's  
14                        spouse or one other family member.
- 15                  b.    The board may invite to the hearing any two representatives to speak on  
16                        behalf of the board and may invite the school district business manager.
- 17          5.    If a continuance is requested by the superintendent, the board shall grant a  
18                   continuance for a period not to exceed seven days. The board may grant a  
19                   continuance in excess of seven days upon a showing of good cause.
- 20          6.    No cause of action for libel or slander may be brought regarding any  
21                   communication made at an executive session held by the board for the purposes  
22                   provided in this section.

23           **15.1-14-07. School district superintendent - Discharge for cause - Report to the**  
24 **education standards and practices board.** If the board of a school district discharges a  
25 superintendent for cause, the board shall report the discharge to the education standards and  
26 practices board.

27           **15.1-14-08. School district superintendent - Suspension during discharge**  
28 **proceeding - Compensation.** The board of a school district may suspend a superintendent if,  
29 by unanimous vote, the board determines that suspension is appropriate during the period in  
30 which a discharge for cause is pursued. If the superintendent is ultimately discharged for  
31 cause, the board may determine the amount of compensation, if any, due the superintendent

1 during the period of suspension. If the superintendent is ultimately not discharged, the board  
2 may not apply any reduction to the superintendent's salary for the period of suspension.

3 **15.1-14-09. School district superintendent - Nonrenewal of contract - Reasons -**  
4 **Notice.**

- 5 1. If the board of a school district contemplates not renewing the contract of a  
6 superintendent who has been employed by the board in that position for at least  
7 two consecutive years, the board shall on or before April fifteenth:
- 8 a. Provide written notification of the contemplated nonrenewal to the  
9 superintendent.
  - 10 b. Schedule a hearing to be held on or before April twenty-first for the purpose of  
11 discussing and acting upon the contemplated nonrenewal.
  - 12 c. Provide written notification of the date, time, and place for the hearing to the  
13 superintendent.
  - 14 d. Provide written notification of the reasons for the contemplated nonrenewal to  
15 the superintendent.
- 16 2. a. The reasons for the contemplated nonrenewal of the superintendent's  
17 contract must:
- 18 (1) Be sufficient to justify the contemplated nonrenewal;
  - 19 (2) Relate to the ability, competence, or qualifications of the  
20 superintendent; and
  - 21 (3) Originate from specific findings documented in the formal and written  
22 evaluations of the superintendent's performance required by section  
23 15.1-14-03.
- 24 b. The provisions of this section do not apply if the contemplated nonrenewal is  
25 based on a necessary reduction in personnel.

26 **15.1-14-10. School district superintendent - Nonrenewal of contract - Hearing.**

- 27 1. At the hearing required by section 15.1-14-09, the board of the school district shall  
28 present testimony or documentary evidence to substantiate the reasons for the  
29 contemplated nonrenewal of a superintendent who has been employed by the  
30 board in that position for at least two consecutive years.

- 1           2.    The superintendent may call witnesses and present evidence necessary to refute
- 2                    the reasons for nonrenewal.
- 3           3.    Each witness appearing on behalf of the board of the school district or the
- 4                    superintendent may be questioned for the purpose of clarification.
- 5           4.    Unless otherwise agreed to by the board and the superintendent, the hearing must
- 6                    be conducted as an executive session of the board, except that:
- 7                a.    The superintendent may invite to the hearing any two representatives to
- 8                    speak on behalf of the superintendent and may invite the superintendent's
- 9                    spouse or one other family member.
- 10             b.    The board may invite to the hearing any two representatives to speak on
- 11                 behalf of the board and may invite the school district business manager.
- 12           5.    If the superintendent chooses to be accompanied by an attorney, the legal
- 13                    expenses attributable to that representation are the responsibility of the
- 14                    superintendent.
- 15           6.    If a continuance is requested by the superintendent, the board shall grant a
- 16                    continuance for a period not to exceed seven days.
- 17           7.    No cause of action for libel or slander may be brought regarding any
- 18                    communication made at an executive session held by the board for the purposes
- 19                    provided in this section.
- 20           8.    If, after considering the testimony and evidence presented at the hearing, the
- 21                    board chooses not to renew the contract of the superintendent, the board shall
- 22                    provide written notice of its decision to the superintendent on or before May first.

23           **15.1-14-11. School district superintendent - Contract - Failure to provide notice of**  
24 **nonrenewal.** The contract of a school district superintendent is deemed to be renewed for a  
25 period of one year from its termination date if:

- 26           1.    On or before April fifteenth, the board of a school district has not provided written
- 27                    notification to the superintendent regarding a contemplated nonrenewal of the
- 28                    superintendent's contract; and
- 29           2.    On or before June first, the superintendent has not provided to the board a written
- 30                    resignation.



1           **15.1-14-12. School district superintendent - Employed for less than two years -**  
2 **Notification of nonrenewal.** If the board of a school district elects not to renew the contract of  
3 a superintendent who has been employed by the board in that position for less than two years,  
4 the board shall provide written notice of the nonrenewal to the superintendent before May first.  
5 At the request of the superintendent, the board shall meet with the superintendent to convey the  
6 reasons for the nonrenewal.

7           **15.1-14-13. Multidistrict special education unit - Director - Evaluation.**

- 8           1. Before December fifteenth of each year, the board of a multidistrict special  
9           education unit shall conduct a formative evaluation of the director's performance.
- 10          2. Before March fifteenth of each year, the board shall conduct a formal evaluation of  
11          the director's performance. The board shall place a copy of the evaluation report in  
12          the director's file and shall provide a copy of the evaluation report to the director.
- 13          3. If the board finds the director's performance to be unsatisfactory in any area, the  
14          board shall detail its findings regarding the director's performance in the report and  
15          shall make recommendations.
- 16          4. Upon receiving the report, the director may provide a written response to the  
17          board. The board shall place the director's written response in the director's  
18          personnel file.
- 19          5. The board shall meet with the director to discuss the evaluation.

20           **15.1-14-14. Multidistrict special education unit - Director - Grounds for dismissal.**

21 The board of a multidistrict special education unit may dismiss a director prior to the expiration  
22 of the individual's contract for any of the following causes:

- 23          1. Immoral conduct.
- 24          2. Insubordination.
- 25          3. Conviction of a felony.
- 26          4. Conduct unbecoming the position of a director.
- 27          5. Failure to perform contracted duties without justification.
- 28          6. Gross inefficiency that the director has failed to correct after written notice.
- 29          7. Continuing physical or mental disability that renders the director unfit or unable to  
30          perform the director's duties.

1           **15.1-14-15. Multidistrict special education unit - Director - Discharge for cause -**  
2 **Notice of hearing - Legal expenses.**

- 3           1. If the board of a multidistrict special education unit intends to discharge a director  
4 for cause prior to the expiration of the director's contract, the board shall:
- 5           a. Provide the director with a written description of the reasons for the discharge;  
6 and
- 7           b. Provide the director with written notice specifying the date and time at which  
8 the board will conduct a hearing regarding the discharge.
- 9           2. If the director chooses to be accompanied by an attorney, the legal expenses  
10 attributable to that representation are the responsibility of the director.

11           **15.1-14-16. Multidistrict special education unit - Director - Discharge for cause -**  
12 **Hearing.**

- 13           1. At the hearing, the director may produce evidence and witnesses to rebut any  
14 reasons given by the board of the multidistrict special education unit for its  
15 discharge of the director.
- 16           2. The hearing must be conducted in accordance with chapter 28-32.
- 17           3. All witnesses are subject to cross-examination.
- 18           4. Unless otherwise agreed to by the board and the director, the hearing must be  
19 conducted as an executive session of the board, except that:
- 20           a. The director may invite to the hearing any two representatives to speak on  
21 behalf of the director and may invite the director's spouse or one other family  
22 member.
- 23           b. The board may invite to the hearing any two representatives to speak on  
24 behalf of the board and may invite the unit's business manager.
- 25           5. If a continuance is requested by the director, the board shall grant a continuance  
26 for a period not to exceed seven days. The board may grant a continuance in  
27 excess of seven days upon a showing of good cause.
- 28           6. No cause of action for libel or slander may be brought regarding any  
29 communication made at an executive session held by the board for the purposes  
30 provided in this section.

1           **15.1-14-17. Multidistrict special education unit - Director - Discharge for cause -**  
2 **Report to the education standards and practices board.** If the board of a multidistrict  
3 special education unit discharges a director for cause, the board shall report the discharge to  
4 the education standards and practices board.

5           **15.1-14-18. Multidistrict special education unit - Director - Suspension during**  
6 **discharge proceeding - Compensation.** The board of a multidistrict special education unit  
7 may suspend a director if, by unanimous vote, the board determines that suspension is  
8 appropriate during the period in which a discharge for cause is pursued. If the director is  
9 ultimately discharged for cause, the board may determine the amount of compensation, if any,  
10 due the director during the period of suspension. If the director is ultimately not discharged, the  
11 board may not apply any reduction to the director's salary for the period of suspension.

12           **15.1-14-19. Multidistrict special education unit - Director - Nonrenewal of contract**  
13 **- Reasons - Notice.**

- 14           1. If the board of a multidistrict special education unit contemplates not renewing the  
15 contract of a director who has been employed by the board in that position for at  
16 least two consecutive years, the board, on or before April fifteenth, shall:
- 17           a. Provide written notification of the contemplated nonrenewal to the director.
  - 18           b. Schedule a hearing to be held on or before April twenty-first for the purpose of  
19 discussing and acting upon the contemplated nonrenewal.
  - 20           c. Provide written notification of the date, time, and place for the hearing to the  
21 director.
  - 22           d. Provide written notification of the reasons for the contemplated nonrenewal to  
23 the director.
- 24           2. a. The reasons for the contemplated nonrenewal of the director's contract must:
- 25           (1) Be sufficient to justify the contemplated nonrenewal;
  - 26           (2) Relate to the ability, competence, or qualifications of the director; and
  - 27           (3) Originate from specific findings documented in the formal and written  
28 evaluations of the director's performance required by section  
29 15.1-14-13.
- 30           b. The provisions of this section do not apply if the contemplated nonrenewal is  
31 based on a necessary reduction in personnel.

1           **15.1-14-20. Multidistrict special education unit - Director - Nonrenewal of contract**  
2 **- Hearing.**

- 3           1. At the hearing required by section 15.1-14-19, the board of the multidistrict special  
4 education unit shall present testimony or documentary evidence to substantiate the  
5 reasons for the contemplated nonrenewal of a director who has been employed by  
6 the board in that position for at least two consecutive years.
- 7           2. The director may call witnesses and present evidence necessary to refute the  
8 reasons for nonrenewal.
- 9           3. Each witness appearing on behalf of the board or the director may be questioned  
10 for the purpose of clarification.
- 11           4. Unless otherwise agreed to by the board and the director, the hearing must be  
12 conducted as an executive session of the board, except that:
- 13           a. The director may invite to the hearing any two representatives to speak on  
14 behalf of the director and may invite the director's spouse or one other family  
15 member.
- 16           b. The board may invite to the hearing any two representatives to speak on  
17 behalf of the board and may invite the unit's business manager.
- 18           5. If the director chooses to be accompanied by an attorney, the legal expenses  
19 attributable to that representation are the responsibility of the director.
- 20           6. If a continuance is requested by the director, the board shall grant a continuance  
21 for a period not in excess of seven days.
- 22           7. No cause of action for libel or slander may be brought regarding any  
23 communication made at an executive session held by the board for the purposes  
24 provided in this section.
- 25           8. If, after considering the testimony and evidence presented at the hearing, the  
26 board chooses not to renew the contract of the director, the board shall provide  
27 written notice of its decision to the director on or before May first.

28           **15.1-14-21. Multidistrict special education unit - Director - Contract - Failure to**  
29 **provide notice of nonrenewal.** The contract of a multidistrict special education unit director is  
30 deemed to be renewed for a period of one year from its termination date if:

- 1           1.    On or before April fifteenth, the board of the multidistrict special education unit has
- 2                    not provided written notification to the director regarding a contemplated
- 3                    nonrenewal of the director's contract; and
- 4           2.    On or before June first, the director has not provided to the board a written
- 5                    resignation.

6           **15.1-14-22. Multidistrict special education unit - Director - Employed for less than**  
7 **two years - Notification of nonrenewal.** If the board of a multidistrict special education unit  
8 elects not to renew the contract of a director who has been employed by the board in that  
9 position for less than two years, the board shall provide written notice of the nonrenewal to the  
10 director before May first. At the request of the director, the board shall meet with the director to  
11 convey the reasons for the nonrenewal.

12           **15.1-14-23. Area vocational and technology center - Director - Evaluation.**

- 13           1.    Before December fifteenth of each year, the board of an area vocational and
- 14                    technology center shall conduct a formative evaluation of the director's
- 15                    performance.
- 16           2.    Before March fifteenth of each year, the board shall conduct a formal evaluation of
- 17                    the director's performance. The board shall place a copy of the evaluation report in
- 18                    the director's file and shall provide a copy of the evaluation report to the director.
- 19           3.    If the board finds the director's performance to be unsatisfactory in any area, the
- 20                    board shall detail its findings regarding the director's performance in the report and
- 21                    shall make recommendations.
- 22           4.    Upon receiving the report, the director may provide a written response to the
- 23                    board. The board shall place the director's written response in the director's
- 24                    personnel file.
- 25           5.    The board shall meet with the director to discuss the evaluation.

26           **15.1-14-24. Area vocational and technology center - Director - Grounds for**  
27 **dismissal.** The board of an area vocational and technology center may dismiss a director prior  
28 to the expiration of the individual's contract for any of the following causes:

- 29           1.    Immoral conduct.
- 30           2.    Insubordination.
- 31           3.    Conviction of a felony.

- 1           4.    Conduct unbecoming the position of a director.
- 2           5.    Failure to perform contracted duties without justification.
- 3           6.    Gross inefficiency that the director has failed to correct after written notice.
- 4           7.    Continuing physical or mental disability that renders the director unfit or unable to
- 5                 perform the director's duties.

6           **15.1-14-25. Area vocational and technology center - Director - Discharge for**  
7 **cause - Notice of hearing - Legal expenses.**

- 8           1.    If the board of an area vocational and technology center intends to discharge a
- 9                 director for cause prior to the expiration of the director's contract, the board shall:
- 10            a.    Provide the director with a written description of the reasons for the discharge;
- 11                 and
- 12            b.    Provide the director with written notice specifying the date and time at which
- 13                 the board will conduct a hearing regarding the discharge.
- 14           2.    If the director chooses to be accompanied by an attorney, the legal expenses
- 15                 attributable to that representation are the responsibility of the director.

16           **15.1-14-26. Area vocational and technology center - Director - Discharge for**  
17 **cause - Hearing.**

- 18           1.    At the hearing, the director may produce evidence and witnesses to rebut any
- 19                 reasons given by the board of the area vocational and technology center for its
- 20                 discharge of the director.
- 21           2.    The hearing must be conducted in accordance with chapter 28-32.
- 22           3.    All witnesses are subject to cross-examination.
- 23           4.    Unless otherwise agreed to by the board and the director, the hearing must be
- 24                 conducted as an executive session of the board, except that:
- 25            a.    The director may invite to the hearing any two representatives to speak on
- 26                 behalf of the director and may invite the director's spouse or one other family
- 27                 member.
- 28            b.    The board may invite to the hearing any two representatives to speak on
- 29                 behalf of the board and may invite the center's business manager.

1           5.    If a continuance is requested by the director, the board shall grant a continuance  
2                   for a period not to exceed seven days. The board may grant a continuance in  
3                   excess of seven days upon a showing of good cause.

4           6.    No cause of action for libel or slander may be brought regarding any  
5                   communication made at an executive session held by the board for the purposes  
6                   provided in this section.

7           **15.1-14-27. Area vocational and technology center - Director - Discharge for**  
8 **cause - Report to the education standards and practices board.** If the board of an area  
9 vocational and technology center discharges a director for cause, the board shall report the  
10 discharge to the education standards and practices board.

11           **15.1-14-28. Area vocational and technology center - Director - Suspension during**  
12 **discharge proceeding - Compensation.** The board of an area vocational and technology  
13 center may suspend a director if, by unanimous vote, the board determines that suspension is  
14 appropriate during the period in which a discharge for cause is pursued. If the director is  
15 ultimately discharged for cause, the board may determine the amount of compensation, if any,  
16 due the director during the period of suspension. If the director is ultimately not discharged, the  
17 board may not apply any reduction to the director's salary for the period of suspension.

18           **15.1-14-29. Area vocational and technology center - Director - Nonrenewal of**  
19 **contract - Reasons - Notice.**

20           1.    If the board of an area vocational and technology center contemplates not  
21                   renewing the contract of a director who has been employed by the board in that  
22                   position for at least two consecutive years, the board shall on or before April  
23                   fifteenth:

- 24                   a.    Provide written notification of the contemplated nonrenewal to the director.  
25                   b.    Schedule a hearing to be held on or before April twenty-first for the purpose of  
26                   discussing and acting upon the contemplated nonrenewal.  
27                   c.    Provide written notification of the date, time, and place for the hearing to the  
28                   director.  
29                   d.    Provide written notification of the reasons for the contemplated nonrenewal to  
30                   the director.

31           2.    a.    The reasons for the contemplated nonrenewal of the director's contract must:

- 1 (1) Be sufficient to justify the contemplated nonrenewal;
- 2 (2) Relate to the ability, competence, or qualifications of the director; and
- 3 (3) Originate from specific findings documented in the formal and written
- 4 evaluations of the director's performance required by section
- 5 15.1-14-23.

6 b. The provisions of this section do not apply if the contemplated nonrenewal is  
7 based on a necessary reduction in personnel.

8 **15.1-14-30. Area vocational and technology center - Director - Nonrenewal of**  
9 **contract - Hearing.**

- 10 1. At the hearing required by section 15.1-14-29, the board of the area vocational and  
11 technology center shall present testimony or documentary evidence to substantiate  
12 the reasons for the contemplated nonrenewal of a director who has been employed  
13 by the board in that position for at least two consecutive years.
- 14 2. The director may call witnesses and present evidence necessary to refute the  
15 reasons for nonrenewal.
- 16 3. Each witness appearing on behalf of the board or the director may be questioned  
17 for the purpose of clarification.
- 18 4. Unless otherwise agreed to by the board and the director, the hearing must be  
19 conducted as an executive session of the board, except that:
  - 20 a. The director may invite to the hearing any two representatives to speak on  
21 behalf of the director and may invite the director's spouse or one other family  
22 member.
  - 23 b. The board may invite to the hearing any two representatives to speak on  
24 behalf of the board and may invite the center's business manager.
- 25 5. If the director chooses to be accompanied by an attorney, the legal expenses  
26 attributable to that representation are the responsibility of the director.
- 27 6. If a continuance is requested by the director, the board shall grant a continuance  
28 for a period not to exceed seven days.
- 29 7. No cause of action for libel or slander may be brought regarding any  
30 communication made at an executive session held by the board for the purposes  
31 provided in this section.



1           8.    If, after considering the testimony and evidence presented at the hearing, the  
2                    board chooses not to renew the contract of the director, the board shall provide  
3                    written notice of its decision to the director on or before May first.

4           **15.1-14-31. Area vocational and technology center - Director - Contract - Failure**  
5 **to provide notice of nonrenewal.** The contract of an area vocational and technology center  
6 director is deemed to be renewed for a period of one year from its termination date if:

7           1.    On or before April fifteenth, the board of the center has not provided written  
8                    notification to the director regarding a contemplated nonrenewal of the director's  
9                    contract; and

10          2.    On or before June first, the director has not provided to the board a written  
11                   resignation.

12          **15.1-14-32. Area vocational and technology center - Director - Employed for less**  
13 **than two years - Notification of nonrenewal.** If the board of an area vocational and  
14 technology center elects not to renew the contract of a director who has been employed by the  
15 board in that position for less than two years, the board shall provide written notice of the  
16 nonrenewal to the director before May first. At the request of the director, the board shall meet  
17 with the director to convey the reasons for the nonrenewal.

18          **SECTION 3.** Chapter 15.1-15 of the North Dakota Century Code is created and  
19 enacted as follows:

20          **15.1-15-01. Performance reviews - Written reports.**

21          1.    a.    The school district shall conduct two performance reviews of each individual  
22                    employed as a teacher, a principal, or as an assistant or associate  
23                    superintendent during each of the first three years an individual holds such a  
24                    position. The school district shall prepare written reports of the individual's  
25                    performance. The school district shall make the first yearly report available to  
26                    the individual on or before December fifteenth. The school district shall make  
27                    the second yearly report available to the individual on or before March  
28                    fifteenth.

29          b.    If an individual begins employment as a teacher, a principal, or as an  
30                    assistant or associate superintendent after January first, the school district  
31                    shall conduct one review of the individual's performance. The school district

1                   shall make the written report available to the individual on or before March  
2                   fifteenth.

3           2.   Beginning with the fourth year of an individual's employment as a teacher, a  
4           principal, or as an assistant or associate superintendent, the school district shall  
5           conduct at least one review of the individual's performance each year. The school  
6           district shall prepare a written report of the individual's performance and make the  
7           report available to the individual on or before March fifteenth.

8           **15.1-15-02. First-year teachers - Review of evaluations - Renewal and nonrenewal**  
9 **of contracts.**

- 10           1.   If the board of a school district contemplates not renewing the contract of an  
11           individual employed as a first-year teacher, the board shall review the individual's  
12           evaluations required by section 15.1-15-01 and meet with the individual in an  
13           executive session to discuss the reasons for the contemplated nonrenewal.
- 14           2.   The individual employed as a first-year teacher may be accompanied by two  
15           representatives selected by the individual for the purpose of speaking on behalf of  
16           the individual and by the individual's spouse or one other family member.
- 17           3.   No claim for relief for libel or slander may be brought regarding any communication  
18           made at an executive session of a school board held pursuant to this section.
- 19           4.   If the board of a school district elects not to renew the contract of an individual  
20           employed as a first-year teacher, the board shall provide written notification of the  
21           decision, together with a detailed description of the board's reasons, to the  
22           individual no earlier than April fifteenth nor later than May first.
- 23           5.   Failure by the board of a school district to provide the notification required by  
24           subsection 4 constitutes an offer to renew the individual's contract on the same  
25           terms and conditions as the individual's contract for the current year.
- 26           6.   For purposes of this section, a "first-year teacher" means an individual teaching for  
27           the first school year since obtaining a license to teach.

28           **15.1-15-03. Employment after January first - Review of evaluation - Renewal and**  
29 **nonrenewal of contracts.**

- 30           1.   If the board of a school district contemplates not renewing the contract of an  
31           individual employed after January first as a teacher, a principal, or as an assistant

- 1 or associate superintendent, the board shall review the individual's evaluation  
2 required by section 15.1-15-01 and meet with the individual in an executive session  
3 to discuss the reasons for the contemplated nonrenewal.
- 4 2. The individual may be accompanied by two representatives selected by the  
5 individual for the purpose of speaking on behalf of the individual and by the  
6 individual's spouse or one other family member.
- 7 3. No claim for relief for libel or slander may be brought regarding any communication  
8 made at an executive session of a school board held pursuant to this section.
- 9 4. If the board of a school district elects not to renew the contract of the individual, the  
10 board shall provide written notification of the decision, together with a detailed  
11 description of the board's reasons, to the individual no earlier than April fifteenth  
12 nor later than May first.
- 13 5. Failure by the board of a school district to provide the notification required by  
14 subsection 4 constitutes an offer to renew the individual's contract on the same  
15 terms and conditions as the individual's contract for the current year.
- 16 6. The provisions of this section are applicable only through the conclusion of the  
17 school year in which the individual was employed.

18 **15.1-15-04. Contracts - Renewals - Notice.**

- 19 1. a. If the board of a school district elects not to renew the contract of a teacher, a  
20 principal, or an assistant or associate superintendent for the ensuing school  
21 year, the board shall provide written notification of the decision to the  
22 individual.
- 23 b. The board may not notify the individual under this section earlier than March  
24 first nor later than May first of the school year in which the individual has been  
25 employed.
- 26 c. The failure of a board to provide written notice under this subsection  
27 constitutes an offer to renew the individual's contract for the ensuing school  
28 year, under the same terms and conditions as the individual's current  
29 contract.

- 1           2.   a.   No earlier than March first nor later than May first, the board of a school  
2                    district shall notify each individual offered renewal of a contract of the date by  
3                    which the individual must accept or reject the contract.
- 4           b.   At least thirty calendar days must pass between the notification of each  
5                    individual, as required by this subsection, and the date by which the individual  
6                    must accept or reject the contract.
- 7           3.   a.   In order to accept an offer to renew a contract, including an offer generated by  
8                    the failure of a board to provide written notice as required by subsection 1, an  
9                    individual shall provide written notification of acceptance to the board on or  
10                  before the date required by the board or June first, whichever is earlier. An  
11                  individual accepting an offer to renew a contract is entitled to a written  
12                  contract for the ensuing school year.
- 13          b.   In order to reject an offer to renew a contract, including an offer generated by  
14                  the failure of a board to provide written notice as required by subsection 1, an  
15                  individual shall provide written notification of rejection to the board on or  
16                  before the date required by the board or June first, whichever is earlier.
- 17          c.   If an individual fails to provide notification of acceptance or rejection of an  
18                  offer to renew a contract, the board is relieved of any continuing contract  
19                  provisions.
- 20          4.   If negotiations are being carried on pursuant to chapter 15.1-16, the provisions of  
21                  this section requiring the board of a school district to give an individual notice and  
22                  requiring that the individual respond to the notice are suspended until the  
23                  negotiations are completed.

24           **15.1-15-05. Contracts - Contemplated nonrenewal - Reasons - Notice.**

- 25          1.   If the board of a school district contemplates not renewing the contract of an  
26                  individual employed as a teacher, a principal, or as an associate or assistant  
27                  superintendent, the board shall, no earlier than March first nor later than April  
28                  fifteenth:
- 29          a.   Provide written notification of the contemplated nonrenewal to the individual.

- 1           b.    Schedule a special school board meeting to be held on or before April
- 2                    twenty-first for the purpose of discussing and acting upon the contemplated
- 3                    nonrenewal.
- 4           c.    Provide written notification of the date, time, and place for the special school
- 5                    board meeting to the individual.
- 6           d.    Provide written notification of the reasons for the contemplated nonrenewal to
- 7                    the individual.
- 8           2.    The reasons for the contemplated nonrenewal of the individual's contract must not
- 9                    be frivolous or arbitrary. The reasons must be sufficient to justify the contemplated
- 10                  nonrenewal and must:
- 11           a.    Originate from specific findings documented in the report of the individual's
- 12                    performance required by section 15.1-15-01 and relate to the individual's
- 13                    ability, competence, or qualifications; or
- 14           b.    Originate from the needs of the district in justifying a reduction in the staff.

15           **15.1-15-06. Contracts - Contemplated nonrenewal - Meeting.**

- 16           1.    At the special school board meeting required by section 15.1-15-05, the school
- 17                    district superintendent or a designee of the board shall present testimony or
- 18                    documentary evidence regarding the reasons for the contemplated nonrenewal of
- 19                    the individual's contract.
- 20           2.    The board of the school district contemplating the nonrenewal of an individual's
- 21                    contract may call additional witnesses to present testimony or documentary
- 22                    evidence regarding the reasons for nonrenewal.
- 23           3.    The individual whose contract is subject to nonrenewal may call witnesses and
- 24                    produce evidence necessary to refute the reasons for the nonrenewal.
- 25           4.    Each witness appearing on behalf of the board of the school district or the
- 26                    individual whose contract is subject to nonrenewal may be questioned for the
- 27                    purpose of clarification.
- 28           5.    The board of the school district shall review all testimony and evidence presented
- 29                    at the meeting and make a determination regarding the nonrenewal. If the board
- 30                    determines that the reasons for nonrenewal have not been substantiated, the
- 31                    board shall dismiss the nonrenewal proceedings.

- 1           6. Unless otherwise agreed to by the board of the school district and the individual
- 2           subject to the nonrenewal, the special meeting must be conducted as an executive
- 3           session of the board, except that:
- 4           a. The individual may invite to the meeting any two representatives, and the
- 5           individual's spouse or one other family member; and
- 6           b. The board may invite to the meeting any two representatives, the school
- 7           district business manager, and the school district superintendent.
- 8           7. The individual subject to the nonrenewal may request one continuance. If a
- 9           continuance is requested, the board of the school district shall grant a continuance
- 10          for a period determined by the board but not in excess of seven days.
- 11          8. No cause of action for libel or slander may be brought regarding any
- 12          communication made in an executive session of the board held for the purposes
- 13          provided in this section.
- 14          9. A determination by the board of a school district not to renew an individual's
- 15          contract is, if made in good faith, final and binding on all parties.
- 16          10. If the board of a school district elects not to renew an individual's contract, the
- 17          board shall provide notice of its determination to the individual in writing on or
- 18          before May first.

19           **15.1-15-07. Discharge for cause - Grounds.** The board of a school district may  
20 dismiss an individual employed as a teacher, a principal, or as an assistant or associate  
21 superintendent prior to the expiration of the individual's contract for any of the following causes:

- 22           1. Immoral conduct.
- 23           2. Insubordination.
- 24           3. Conviction of a felony.
- 25           4. Conduct unbecoming the position held by the individual.
- 26           5. Failure to perform contracted duties without justification.
- 27           6. Gross inefficiency that the individual has failed to correct after written notice.
- 28           7. Continuing physical or mental disability that renders the individual unfit or unable to
- 29           perform the individual's duties.

30           **15.1-15-08. Discharge for cause - Hearing.**

- 1           1. If the board of a school district contemplates the discharge for cause of an  
2           individual employed as a teacher, a principal, or as an assistant or associate  
3           superintendent, prior to the expiration of the individual's contract, the board shall  
4           provide written notice to the individual at least ten days prior to the discharge date.  
5           The notice must:
  - 6           a. State the date and time at which the board will conduct a special hearing to  
7           address charges against the individual; and
  - 8           b. State that the individual may demand a list of the charges.
- 9           2. If the individual demands a list of charges under subsection 1, the board shall  
10          furnish the list to the individual at least five days before the hearing.
- 11          3. If the individual notifies the board in writing at least two days before the hearing  
12          that the individual intends to contest the charges, the board shall produce evidence  
13          of the charges at the hearing, together with witnesses who are subject to  
14          cross-examination by the individual or by a representative of the individual.
- 15          4. If a witness is a minor and if it is the wish of the witness or the witness's parent, the  
16          witness may be accompanied by legal counsel and a parent.
- 17          5. At the hearing, the individual may produce evidence and witnesses to refute any  
18          charges. Any witnesses produced by the individual are subject to  
19          cross-examination.
- 20          6. The hearing must be conducted in accordance with chapter 28-32.
- 21          7. Unless otherwise agreed to by the board and the individual, the hearing must be  
22          conducted as an executive session of the board, except that:
  - 23          a. The individual may invite to the hearing any two representatives and the  
24          individual's spouse or one other family member; and
  - 25          b. The board may invite to the hearing any two representatives, the school  
26          business manager, and the school district superintendent.
- 27          8. The individual subject to the discharge may request one continuance. If a  
28          continuance is requested, the board of the school district shall grant the  
29          continuance for a period determined by the board, but not in excess of seven days.  
30          Upon a showing of good cause by the individual, the board may grant a  
31          continuance in excess of seven days.

1           9. No cause of action for libel or slander may be brought regarding any  
2           communication made in an executive session of the board held for the purposes  
3           provided in this section.

4           **15.1-15-09. Alleged child abuse - Discharge - Nonrenewal of contract -**  
5 **Limitations.**

6           1. If an individual employed as a teacher, a principal, or as an assistant or associate  
7           superintendent is the subject of an investigation alleging child abuse or neglect  
8           under section 50-25.1-05 and it is determined that no probable cause exists to  
9           charge the individual with child abuse or neglect, the board of a school district may  
10          neither discharge nor refuse to renew the contract of the individual solely because  
11          the individual was the subject of the investigation.

12          2. If an individual employed as a teacher, a principal, or as an assistant or associate  
13          superintendent is the subject of an investigation alleging child abuse or neglect  
14          under section 50-25.1-05 and it is determined that probable cause exists to charge  
15          the individual with child abuse or neglect, the board of a school district may neither  
16          discharge nor refuse to renew the contract of the individual solely because the  
17          individual is charged with child abuse or neglect.

18          3. If an individual employed as a teacher, a principal, or as an assistant or associate  
19          superintendent is the subject of an investigation alleging child abuse or neglect  
20          under section 50-25.1-05 and it is determined that probable cause exists to charge  
21          the individual with child abuse or neglect, the board of a school district may move  
22          to suspend the teacher, pending the outcome of the case.

23          **15.1-15-10. Suspension during discharge proceeding - Compensation.**

24          1. The board of a school district may suspend an individual employed as a teacher, a  
25          principal, or as an assistant or associate superintendent if, by unanimous vote, the  
26          board determines that suspension is appropriate during the period in which a  
27          discharge for cause is pursued.

28          2. The board shall address the matter of the individual's suspension in an executive  
29          session, unless both the board and the individual agree that the matter may be  
30          addressed in the presence of others or at an open meeting of the board.



- 1           3. If the individual is ultimately discharged for cause, the board may determine the  
2           amount of compensation, if any, payable to the individual during the period of  
3           suspension. If the individual is ultimately not discharged, the board may not apply  
4           any reduction to the individual's salary for the period of suspension.

5           **15.1-15-11. Discharge for cause - Report to education standards and practices**

6 **board.** If the board of a school district discharges for cause an individual employed as a  
7 teacher, a principal, or as an assistant or associate superintendent, the board shall report the  
8 discharge to the education standards and practices board.

9           **15.1-15-12. Nonapplicable provisions.** This chapter does not apply to:

- 10          1. Any individual employed to teach at an institution of higher education under the  
11          control of the state board of higher education;  
12          2. Any individual employed to teach at the youth correctional center, the school for  
13          the blind, or the school for the deaf; and  
14          3. Any individual who replaces a teacher, a principal, or an assistant or associate  
15          superintendent while that teacher, principal, or assistant or associate  
16          superintendent is on a leave of absence or a sabbatical.

17          **SECTION 4.** Chapter 15.1-16 of the North Dakota Century Code is created and  
18 enacted as follows:

19          **15.1-16-01. Definitions.** As used in this chapter:

- 20          1. "Administrator" means an individual who holds an administrator's credential and  
21          who is employed by the board of a school district for the primary purpose of  
22          providing administrative services to the schools of the district. The term includes a  
23          school district superintendent, an assistant or associate school district  
24          superintendent, a school principal, an assistant or associate school principal, a  
25          special education director, a director of a multidistrict special education unit, a  
26          vocational education director, and a director of a vocational technology center.  
27          The term may include an athletic or activity director who meets the requirements of  
28          this subsection.  
29          2. "Negotiating unit" means a group of administrators or a group of teachers who,  
30          because of common interests, common problems, a common employer, or a

- 1 history of common representation, choose to be represented by a single  
2 organization in negotiations with a school board.
- 3 3. "Representative organization" means an organization authorized by a negotiating  
4 unit to represent the members of the unit in negotiations with a school board.
- 5 4. "Strike" means any concerted work stoppage, slowdown, or withholding of  
6 contracted services.
- 7 5. "Teacher" means an individual who is licensed or approved to teach by the  
8 education standards and practices board and is under contract with the board of a  
9 school district to provide classroom instruction or individualized instruction. The  
10 term does not include administrators, substitutes, or paraprofessionals.

11 **15.1-16-02. Education factfinding commission - Appointment - Terms - Quorum.**

- 12 1. The education factfinding commission consists of three members experienced in  
13 educational activities. One member is appointed by the governor, one member is  
14 appointed by the superintendent of public instruction, and one member is  
15 appointed by the attorney general. The member appointed by the superintendent  
16 of public instruction shall serve as the chairman of the commission.
- 17 2. The term of each commission member is three years staggered.
- 18 3. If a vacancy occurs, the individual who appointed the member to be succeeded  
19 shall appoint a new member to serve only the unexpired term of the member to be  
20 succeeded.
- 21 4. Two members of the commission constitute a quorum.

22 **15.1-16-03. Education factfinding commission - Compensation.** Each member of

23 the commission is entitled to receive compensation at the rate of sixty-two dollars and fifty cents  
24 per day and reimbursement for expenses, as provided by law for state officers, for attending  
25 commission meetings or performing duties directed by the commission.

26 **15.1-16-04. Education factfinders - Compensation.** Each factfinder appointed by the

27 education factfinding commission, including each commission member who serves as a  
28 factfinder, is entitled to receive compensation at the rate of sixty-two dollars and fifty cents per  
29 day and reimbursement for expenses, as provided by law for state officers, for attending  
30 commission meetings or performing duties directed by the commission.

1           **15.1-16-05. Education factfinding commission - Rules - Powers.** The education  
2 factfinding commission may adopt rules. The commission and any factfinder appointed by the  
3 commission have, in the performance of their duties, the powers provided in sections 28-32-09,  
4 28-32-11, and 28-32-12.

5           **15.1-16-06. Factfinding - Sharing of cost.** If an impasse is deemed to exist under  
6 section 15.1-16-14, the contending parties shall share the cost of factfinding equally.

7           **15.1-16-07. Representative organizations - Participation.**

8           1. An individual employed as a teacher may form, join, and participate in the activities  
9 of a representative organization or refuse to join or participate in the activities of a  
10 representative organization.

11           2. An individual employed as an administrator may form, join, and participate in the  
12 activities of a representative organization or refuse to join or participate in the  
13 activities of a representative organization.

14           **15.1-16-08. Representation of views.** A representative organization has the exclusive  
15 right to represent a negotiating unit in matters of employee relations with a school board. An  
16 individual employed as a teacher or as an administrator may independently present the  
17 individual's views to a school board, but may not enter into independent negotiations with the  
18 board.

19           **15.1-16-09. Scope of representation.** A representative organization's scope of  
20 representation may include matters relating to the terms and conditions of employment and  
21 employer-employee relations, including salary and working hours.

22           **15.1-16-10. Negotiating unit - Formation.** A group of individuals employed by the  
23 public school district as teachers or a group of individuals employed by the board of a public  
24 school district as administrators may form a negotiating unit by filing with the board a  
25 description of the job groupings or positions that constitute the negotiating unit. Upon receipt of  
26 the description, the board shall accept or reject the proposed negotiating unit. If the board  
27 accepts the negotiating unit, the group that filed the description may designate or select a  
28 representative organization as provided for in section 15.1-16-11.

29           **15.1-16-11. Representative organization - Selection.**

30           1. a. An organization interested in representing a group of individuals employed by  
31 the board of a public school district as teachers or as administrators may file

- 1 with the school board a petition asserting that the organization represents a  
2 majority of the teachers or administrators included within a negotiating unit.  
3 The petition must be accompanied by evidence substantiating the allegation  
4 contained in it.
- 5 b. Within ten days after receiving the petition, the board shall post notice of its  
6 intent to consider the petition in each school wherein the members of the  
7 negotiating unit are employed.
- 8 c. No sooner than ten nor later than twenty days after posting the notice of intent  
9 to consider the petition, the board shall investigate the petition, determine the  
10 question of representation, and post notice of its determination in each school  
11 wherein members of the negotiating unit are employed.
- 12 d. If the petition is not contested, the board shall recognize the petitioner as the  
13 representative organization of the negotiating unit, unless it finds in good faith  
14 that there is a reasonable doubt regarding the validity of the petitioner's  
15 status.
- 16 2. If one organization interested in representing a group of individuals employed as  
17 teachers or as administrators wishes to contest the claim of representation made in  
18 the petition filed by another organization under subsection 1, the contesting  
19 organization shall file a petition with the board. The petition must contain a  
20 statement of contest together with evidence substantiating the allegation. The  
21 contesting organization shall file its petition within ten days from the date on which  
22 the board posted its notice of intent to consider the original petition.
- 23 3. If the board fails to make and post notice of its determination or if the board's  
24 determination has been contested, the board shall call an election to determine the  
25 question of representation. The election must take place no sooner than twenty  
26 nor later than thirty days after the board posts its notice of intent to consider the  
27 original petition.
- 28 4. If the board receives a petition that is signed by at least twenty-five percent of the  
29 members of the negotiating unit and which calls for an election to determine the  
30 question of representation, the board shall call an election. The election must take

1 place no sooner than ten nor later than thirty days after the board receives the  
2 petition.

3 5. The election must be conducted in the manner agreed to by the interested parties.  
4 If the parties cannot reach agreement, the election must be conducted in the  
5 manner determined by the education factfinding commission.

6 **15.1-16-12. Representative organization - Dues - Payroll deduction.** If an individual  
7 employed as a teacher requests in writing that the dues for a representative organization to  
8 which the individual belongs be deducted from the individual's pay and submitted to the  
9 representative organization, the school district in which the individual is employed shall make  
10 the deduction and submit the dues as presented.

11 **15.1-16-13. Good-faith negotiations.**

- 12 1. The board of a school district or its representatives and the representative  
13 organization or its representatives shall, if requested by either entity, meet at  
14 reasonable times and negotiate in good faith regarding:
- 15 a. The terms and conditions of employment.
  - 16 b. Employer-employee relations.
  - 17 c. The formulation of an agreement, which may contain a provision for binding  
18 arbitration.
  - 19 d. The interpretation of an existing agreement.
- 20 2. The board of a school district and the representative organization, at the request of  
21 either party, shall execute a written contract incorporating any agreement reached.
- 22 3. Either the board of a school district or the representative organization may modify  
23 or terminate a contract negotiated under this section by notifying the other party of  
24 its intent to modify or terminate the contract at least sixty days before the  
25 anniversary date. A modification or termination made under this subsection is  
26 effective on the annual anniversary date of the contract.
- 27 4. Nothing in this section compels either the board of a school district or a  
28 representative organization to agree to a proposal or to make a concession.

29 **15.1-16-14. Impasse - Existence.**

- 30 1. An impasse exists if:

- 1 a. After a reasonable period of negotiation, an agreement has not been
- 2 formulated and a dispute exists.
- 3 b. The board of a school district and the representative organization both agree
- 4 that an impasse exists.
- 5 2. An impasse may exist if:
- 6 a. A written contract entered into between the board of a school district and the
- 7 representative organization under section 15.1-16-13 does not contain a
- 8 procedure for resolving a dispute.
- 9 b. A written agreement entered into between the board of a school district and
- 10 the representative organization under section 15.1-16-13 contains an
- 11 inadequate procedure for resolving a dispute.

**15.1-16-15. Impasse - Resolution.**

- 13 1. If an impasse exists, the board of a school district and the representative
- 14 organization may agree to seek mediation. The board and the representative
- 15 organization shall jointly select a mediator and agree to a distribution of the
- 16 mediation cost. If mediation fails or if mediation is not attempted, the board or
- 17 representative organization may request that the education factfinding commission
- 18 provide assistance.
- 19 2. If the education factfinding commission is asked to provide assistance under
- 20 subsection 1 and if the commission determines that an impasse exists, the
- 21 commission shall act as a factfinding commission or appoint a factfinder from a list
- 22 of qualified individuals maintained by the commission. A factfinder appointed
- 23 under this section has the powers designated by the commission. Upon
- 24 completion of all duties, the factfinder shall make a recommendation to the
- 25 commission.
- 26 3. The education factfinding commission shall:
- 27 a. Consider the facts, make its findings, and issue a recommendation; or
- 28 b. Consider the factfinder's report and recommendation, engage in any further
- 29 investigation it deems necessary, and thereafter make its findings and issue a
- 30 recommendation.

1           4.    Within forty days from the date the commission is asked to provide assistance, the  
2                    commission shall deliver its findings and recommendations to the board of the  
3                    school district and to the representative organization. Between ten and twenty  
4                    days after its findings and recommendations are delivered to the board and the  
5                    representative organization, the commission shall make its findings and  
6                    recommendation public if the impasse is not resolved.

7           5.    If facts are established or a recommendation made in accordance with factfinding  
8                    procedures agreed to by the board of the school district and the representative  
9                    organization and the impasse continues, the education factfinding commission may  
10                  consider the findings and recommendations without instituting its own factfinding  
11                  procedure and the commission may issue its own findings and recommendations  
12                  based on the information available. No sooner than ten nor later than twenty days  
13                  after these findings and recommendations are delivered to the board and the  
14                  representative organization, the commission shall make its findings and  
15                  recommendations public if the impasse is not resolved.

16           **15.1-16-16. Participation in a strike - Prohibition.** No teacher, administrator, or  
17           representative organization may participate in a strike. Any teacher or administrator engaging  
18           in a strike may be denied the full amount of wages during the period of such violation.

19           **15.1-16-17. Discrimination - Prohibition.** Neither the board of a school district nor  
20           any administrator employed by the district may discriminate against any individual employed as  
21           a teacher or administrator because the individual exercises rights available under this chapter.

22           **15.1-16-18. Representative organization - Recognition - Withdrawal of**  
23           **recognition.** A contract between the board of a school district and a representative  
24           organization bars another representative group from petitioning for recognition and bars the  
25           withdrawal of recognition from the representative organization for the duration of the contract or  
26           three years, whichever is less.

27           **15.1-16-19. Sick leave - Accumulation.** The board of a school district shall allow a  
28           teacher to:

29           1.    Use at least ten days of sick leave each school year without a loss of  
30                  compensation; and

- 1           2.   Accumulate sick leave and carry over from year to year at least thirty days of  
2                    accumulated unused sick leave.

3           **15.1-16-20. School for the blind - School for the deaf - Youth correctional center -**  
4 **Contracts of employment for teachers - Personnel policies.**

- 5           1.   The superintendent of public instruction shall develop contracts of employment and  
6                    personnel policies applicable to each individual employed as a teacher at the  
7                    school for the blind and the school for the deaf. The director of the division of  
8                    juvenile services, with the approval of the director of the department of corrections  
9                    and rehabilitation, shall develop contracts of employment and personnel policies  
10                   applicable to each individual employed as a teacher at the North Dakota youth  
11                   correctional center.
- 12          2.   The contracts required by this section may include the assignment of duties,  
13                   salaries, work hours, job titles, and a school calendar.
- 14          3.   The personnel policies required by this section must include job descriptions and  
15                   nonrenewal, discipline, and dismissal procedures. The policies must seek to  
16                   harmonize the rights of teachers with laws applicable to other state employees.  
17                   The superintendent of public instruction and the director of the division of juvenile  
18                   services, with the approval of the director of the department of corrections and  
19                   rehabilitation, shall work together in the development of the personnel policies.
- 20          4.   Each individual employed as a teacher at the school for the blind, the school for the  
21                   deaf, or the youth correctional center is entitled to receive a copy of a master  
22                   agreement consisting of a policy manual and an individualized contract specifying  
23                   the individual's job title, contracted hours, salary schedule, benefits, and other  
24                   details applicable to the individual's employment.
- 25          5.   For purposes of this section, "teacher" means a contracted state employee who:  
26                   a.   Holds a teaching license or is approved to teach by the education standards  
27                   and practices board;
- 28                   b.   Is employed primarily to provide classroom instruction or individualized  
29                   instruction;
- 30                   c.   Has a work schedule set in accordance with the school calendar;



- 1           d.    Is a guidance counselor, school librarian, itinerant outreach teacher, or a  
2                    vocational and technological resource person required to meet teaching and  
3                    licensure requirements; and
- 4           e.    Is not a superintendent, assistant superintendent, principal, supervisor,  
5                    substitute, or paraprofessional.

6           **SECTION 5.** Chapter 15.1-17 of the North Dakota Century Code is created and  
7 enacted as follows:

8           **15.1-17-01. Personnel file - Review by teacher.** A teacher employed by a school  
9 district or a state-supported institution that provides elementary and secondary education to its  
10 students may review documents generated and placed in the teacher's personnel file after the  
11 teacher was employed for the position. Upon receiving a written request, the school principal,  
12 administrator, or school district superintendent shall provide to a teacher a copy of any  
13 document in the teacher's personnel file. The teacher shall pay any copying costs.

14          **15.1-17-02. Personnel file - Teacher's response.** A teacher employed by a school  
15 district may provide the school district superintendent with a written response to any document  
16 in the teacher's personnel file. A teacher employed by a state institution that provides  
17 elementary and secondary education to its students may provide the institution's administrator  
18 with a written response to any document in the teacher's personnel file. A school district  
19 superintendent or an administrator receiving a written response under this section shall attach  
20 the response to the appropriate document and return both to the teacher's personnel file.

21          **15.1-17-03. Personnel file - Objection to documents.** If a teacher believes that any  
22 document in the teacher's personnel file, other than a formal performance evaluation, is  
23 inappropriate or inaccurate, the teacher may request that the file be reviewed by the principal of  
24 the school or by the administrator if the school is a state institution that provides elementary and  
25 secondary education to its students. If a teacher employed by a school district is dissatisfied  
26 with the outcome of the initial review, the teacher is entitled to have the file reviewed, upon  
27 written request, by the school district superintendent. If a teacher employed by a school district  
28 is dissatisfied with the outcome of the superintendent's review, the teacher is entitled to have  
29 the file reviewed, upon written request, by the school board.

30          **15.1-17-04. Complaint against teacher - Notification.** If a complaint is filed against a  
31 teacher or against an individual for whom the teacher is administratively responsible, and the

1 complaint is to be placed in the teacher's personnel file, the school principal, administrator, or  
2 school district superintendent shall inform the teacher of the complaint.

3 **15.1-17-05. No secret files maintained - Penalty.** It is a class B misdemeanor for any  
4 individual employed by a school district or a state-supported institution that provides elementary  
5 and secondary education to its students to maintain documents about a teacher unless the  
6 teacher has access to the documents, as provided in this chapter.

7 **SECTION 6.** Chapter 15.1-18 of the North Dakota Century Code is created and  
8 enacted as follows:

9 **15.1-18-01. Early childhood education teaching license.** The education standards  
10 and practices board shall develop and implement an optional early childhood education  
11 teaching license. The optional early childhood education teaching license may be used in  
12 nonparental settings such as early childhood programs, preschool programs, and head start  
13 programs.

14 **15.1-18-02. Kindergarten through grade eight - Teacher qualifications -**  
15 **Exceptions.**

- 16 1. In order to teach kindergarten, an individual must:
- 17 a. Be licensed to teach by the education standards and practices board or  
18 approved to teach by the education standards and practices board and have a  
19 kindergarten endorsement; or
- 20 b. Be licensed to teach by the education standards and practices board or  
21 approved to teach by the education standards and practices board and  
22 demonstrate to the satisfaction of the education standards and practices  
23 board that the individual will obtain a kindergarten endorsement within two  
24 years from the date of the assignment to teach kindergarten.
- 25 2. In order to teach any grade from one through eight, an individual must:
- 26 a. Be licensed to teach by the education standards and practices board or  
27 approved to teach by the education standards and practices board and have a  
28 major, a minor, or an endorsement in elementary education; or
- 29 b. Be licensed to teach by the education standards and practices board or  
30 approved to teach by the education standards and practices board and  
31 demonstrate to the satisfaction of the education standards and practices

1 board that the individual will obtain an endorsement in elementary education  
2 within two years from the date of the assignment to teach any grade from one  
3 through eight.

4 3. Notwithstanding subsection 2, an individual may teach any grade from five through  
5 eight if the individual:

6 a. Is licensed to teach by the education standards and practices board or  
7 approved to teach by the education standards and practices board and has a  
8 major or an endorsement in middle school education; or

9 b. Is licensed to teach by the education standards and practices board or  
10 approved to teach by the education standards and practices board and  
11 demonstrates to the satisfaction of the education standards and practices  
12 board that the individual will obtain an endorsement in middle school  
13 education within two years from the date of assignment to teach any grade  
14 from five through eight.

15 4. Notwithstanding subsection 2, an individual may teach grade seven or eight if the  
16 individual is licensed to teach by the education standards and practices board or  
17 approved to teach by the education standards and practices board and has a major  
18 or a minor in the assigned course area or field.

19 5. Notwithstanding subsection 2, an individual may teach special education, foreign  
20 language, art, music, physical education, business education, and computer  
21 education at any grade level from kindergarten through eight, provided the  
22 individual is licensed to teach by the education standards and practices board or  
23 approved to teach by the education standards and practices board and meets the  
24 requirements imposed by the superintendent of public instruction.

25 6. An individual may obtain an endorsement by completing teaching requirements  
26 and the minimum number of credit hours in courses prescribed by the education  
27 standards and practices board.

28 7. This section does not apply to an eminence-credentialed teacher.

29 **15.1-18-03. Grades nine through twelve - Teacher qualifications - Exceptions.**

30 1. In order to teach any grade nine through twelve, an individual must be licensed to  
31 teach by the education standards and practices board or approved to teach by the

1 education standards and practices board and have a major, a minor, or a minor  
2 equivalency endorsement issued by the board in the course area or field being  
3 taught by the individual.

4 2. The approval status of a high school is not impacted by the employment of an  
5 individual who has a teaching license issued by the education standards and  
6 practices board in the disciplines of trade, industrial, technical, or health under  
7 chapter 15-20.1 but has neither a major nor a minor in the assigned field.

8 3. A minor equivalency granted to an individual by the superintendent of public  
9 instruction under prior authority remains valid.

10 4. Subsection 1 does not apply to an eminence-credentialed teacher.

11 **15.1-18-04. Student teacher - Eminence-credentialed teacher - Legal authority and**  
12 **status.**

13 1. An individual assigned as a student teacher or employed as an  
14 eminence-credentialed teacher has the same legal authority and status as a  
15 licensed teacher employed by the school district. The authority extends to all  
16 aspects of student management and discipline, the handling of confidential student  
17 records, and to all legal authority granted to a licensed teacher in the state.

18 2. An individual assigned as a student teacher or employed as an  
19 eminence-credentialed teacher must be deemed a licensed teacher employed by  
20 the district with respect to acts performed by the individual at the direction of or  
21 with the consent of the district employees under whose supervision and control the  
22 individual performs duties, whether or not the duties are performed entirely in the  
23 presence of district employees assigned to supervise the individual.

24 3. An individual assigned as a student teacher or employed as an  
25 eminence-credentialed teacher must be deemed an employee of the school district  
26 for purposes of liability insurance coverage under sections 32-12.1-05 and  
27 39-01-08.

28 4. For purposes of this chapter, "eminence-credentialed teacher" means an individual  
29 who provides teaching services in accordance with subsection 21 of section  
30 15.1-09-33.

1           **SECTION 7.** Chapter 15.1-20 of the North Dakota Century Code is created and  
2 enacted as follows:

3           **15.1-20-01. Compulsory attendance.** Any person having responsibility for a child  
4 between the ages of seven and sixteen years shall ensure that the child is in attendance at a  
5 public school for the duration of each school year. This section does not apply if a child is  
6 exempted under the provisions of section 15.1-20-02.

7           **15.1-20-02. Compulsory attendance - Exceptions.**

- 8           1. The provisions of section 15.1-20-01 do not apply if the person having  
9 responsibility for the child demonstrates to the satisfaction of the school board that:
- 10           a. The child is in attendance for the same length of time at an approved  
11 nonpublic school;
- 12           b. The child has completed high school;
- 13           c. The child is necessary to the support of the child's family;
- 14           d. A multidisciplinary team that includes the child's school district  
15 superintendent, the director of the child's special education unit, the child's  
16 classroom teacher, the child's physician, and the child's parent has  
17 determined that the child has a disability that renders attendance or  
18 participation in a regular or special education program inexpedient or  
19 impracticable; or
- 20           e. The child is receiving home education; provided, however, that this exception  
21 is not available if the child has developmental disabilities as defined by  
22 subsection 1 of section 25-01.2-01.
- 23           2. A decision by the board of a school district under subsection 1 is appealable to the  
24 district court.

25           **15.1-20-03. Compulsory attendance law - Enforcement.** Each school board  
26 member, school superintendent, principal, truant officer, teacher, and county superintendent of  
27 schools is charged with the enforcement of compulsory school attendance provisions. The  
28 compulsory school attendance provisions are applicable to any child who is offered school  
29 facilities by a school district, regardless of whether or not the child actually resides in the  
30 district. Each individual listed in this section shall investigate any alleged violation of the  
31 compulsory attendance provisions and shall obtain from the parent of any child not attending

1 school in accordance with the requirements of this chapter the reason, if any, for the absence.  
2 In any school district not having a district superintendent, the county superintendent of schools  
3 must be notified of any allegation regarding the violation of compulsory attendance provisions  
4 and the county superintendent shall report the allegation to the state's attorney of the county.  
5 In all other districts, the school district superintendent or the principal of the child's school shall  
6 report to the state's attorney of the county the facts in connection with any alleged violation of  
7 the compulsory attendance provisions. The state's attorney may petition a court, pursuant to  
8 chapter 27-20, for a determination as to whether a child is educationally deprived.

9 **15.1-20-04. Home education - Definition.** For purposes of this chapter, "home  
10 education" means an educational program for a child provided in accordance with chapter  
11 15.1-23 by the child's parent in the child's home.

12 **SECTION 8.** Chapter 15.1-21 of the North Dakota Century Code is created and  
13 enacted as follows:

14 **15.1-21-01. Education of students - Requirements.** The superintendent of public  
15 instruction shall ensure that students receive education in:

- 16 1. English language arts, including reading, composition, creative writing, English  
17 grammar, and spelling.
- 18 2. Mathematics.
- 19 3. Social studies, including the United States Constitution, and United States history,  
20 geography, and government.
- 21 4. Science, including agriculture.
- 22 5. Physical education.
- 23 6. Health, including physiology, hygiene, disease control, and the nature and effects  
24 of alcohol, tobacco, and narcotics.

25 **15.1-21-02. High schools - Required units.** In order to be approved by the  
26 superintendent of public instruction, each public and nonpublic high school shall make available  
27 to each student:

- 28 1. Four units of English.
- 29 2. Three units of mathematics.
- 30 3. Four units of science.

- 1           4. Three units of social studies, including one of world history and one of United
- 2           States history, both of which must emphasize geography.
- 3           5. One unit of health and physical education.
- 4           6. One unit of music.
- 5           7. Any six units selected from business education, economics and the free enterprise
- 6           system, foreign language, American sign language, industrial arts, and vocational
- 7           courses including family and consumer sciences, agriculture, business and office
- 8           technology, marketing, diversified occupations, trade and industrial education,
- 9           technology education, and health careers. The vocational courses may be offered
- 10          through cooperative arrangements approved by the state board for vocational and
- 11          technical education.

12           **15.1-21-03. High school unit - Instructional time.** Each unit, other than a natural  
13 science unit, must consist of at least one hundred twenty hours of instruction per school  
14 calendar. Each natural science unit must consist of at least one hundred fifty hours of  
15 instruction per school calendar. The requirements of this section are subject to the holidays  
16 and nonstudent contact days provided for in section 15.1-06-04.

17           **15.1-21-04. Minimum high school courses - Alternative curriculum plans.**

- 18          1. Except as otherwise provided in this section, each student shall enroll in at least
- 19          four units of high school work in each grade from nine through twelve.
- 20          2. A student in grade twelve may enroll in fewer than four units of work, provided:
  - 21           a. The student requires fewer than four units of work for graduation; and
  - 22           b. The board of the school district has adopted an alternative high school senior
  - 23           curriculum plan.
- 24          3. An alternative high school senior curriculum plan becomes effective if:
  - 25           a. It is adopted by action of the school board;
  - 26           b. It contains specific criteria under which a high school senior may enroll in
  - 27           fewer than four units of work; and
  - 28           c. It has been submitted to and approved by the superintendent of public
  - 29           instruction.

30           **15.1-21-05. Indian education curriculum.** The superintendent of public instruction  
31 may develop an Indian education curriculum to be implemented within the minimum curriculum

1 requirements for elementary and secondary schools. The superintendent shall provide for  
2 continuing research and evaluation and for inservice training necessary to implement an Indian  
3 education curriculum.

4 **15.1-21-06. Goals 2000 - Participation voluntary.** The board of a school district may  
5 choose to participate or not to participate in Goals 2000 Educate America Act [Pub. L. 103-227;  
6 108 Stat. 125; 20 U.S.C. 5801 et seq.]. A board that chooses to participate and directly or  
7 indirectly receives federal funds for its participation shall expend the funds in the manner it  
8 determines best meets the goal of educational enhancement in the school district, in  
9 accordance with the district's locally developed goals 2000 educational improvement  
10 application plan. The superintendent of public instruction may not impose any financial penalty  
11 or other sanction on a school or school district if the school board chooses, at any time, to  
12 terminate participation in goals 2000.

13 **15.1-21-07. School-to-work - Student participation voluntary.** Before an elementary  
14 or secondary school student may participate in any course, program, or project offered under  
15 the auspices of the School-to-Work Opportunities Act of 1994 [Pub. L. 103-239; 108 Stat. 568;  
16 20 U.S.C. 2394 et seq.], the student's school principal shall obtain the written consent of the  
17 student's parent or legal guardian. Participation by a student is voluntary and may not be  
18 deemed a condition of graduation. Neither school personnel, school district personnel, nor the  
19 superintendent of public instruction may impose any academic penalties or any other sanctions  
20 on a student for failure to participate. A student's participation in a course, program, or project  
21 offered under the auspices of the School-to-Work Opportunities Act of 1994 is subject to all  
22 state and federal child labor laws.

23 **SECTION 9.** Chapter 15.1-22 of the North Dakota Century Code is created and  
24 enacted as follows:

25 **15.1-22-01. Kindergarten - Establishment by board - Petition for establishment -**  
26 **Levy.**

- 27 1. Upon its own motion, the board of a school district may establish a free public  
28 kindergarten for the instruction during a school year of resident children below  
29 school age.
- 30 2. If the board receives a petition signed by qualified electors residing in the district  
31 equal in number to at least twenty percent of those who voted in the most recent



1 annual school district election, the board must submit the question of establishing a  
2 kindergarten to the electorate at the next annual or special school district election.

3 The margins of electoral approval provided in section 57-15-14 must be applied.

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

6 **15.1-22-02. Public kindergarten - Requirements.** A school district operating a  
7 kindergarten:

8 1. May not employ an individual as a kindergarten teacher unless the individual is  
9 licensed to teach by the education standards and practices board or approved by  
10 the education standards and practices board.

11 2. Shall submit to the superintendent of public instruction and follow a  
12 developmentally appropriate curriculum.

13 3. Shall provide at least the equivalent of thirty full days of instruction, on a half-day or  
14 full-day basis, as determined by the school board.

15 4. Shall apply all municipal and state health, fire, and safety requirements to the  
16 kindergarten.

17 5. May not enroll a child who is not five years old by midnight August thirty-first of the  
18 year of enrollment, unless the child will be five years old on or before December  
19 thirty-first and:

20 a. The child, by means of developmental and readiness screening instruments  
21 approved by the superintendent of public instruction and administered by the  
22 kindergarten operator, can demonstrate special talents or abilities; or

23 b. The child has been enrolled in another approved kindergarten.

24 **15.1-22-03. Nonpublic kindergarten - Requirements - Approval.** Any person  
25 operating a nonpublic kindergarten may request approval of the kindergarten from the  
26 superintendent of public instruction. The superintendent shall approve a nonpublic kindergarten  
27 if it meets the requirements of section 15.1-22-02.

28 **15.1-22-04. Kindergarten - Discontinuation.** A school board by resolution may cease  
29 to provide a kindergarten.

30 **SECTION 10.** Chapter 15.1-23 of the North Dakota Century Code is created and  
31 enacted as follows:

1           **15.1-23-01. Home education - Definition.** For purposes of this chapter, "home  
2 education" means a program of education supervised by a child's parent, in the child's home, in  
3 accordance with the requirements of this chapter.

4           **15.1-23-02. Statement of intent to supervise home education.** At least fourteen  
5 days before beginning home education or within fourteen days of establishing a child's  
6 residence in a school district, and once each year thereafter, a parent intending to supervise or  
7 supervising home education shall file a statement, reflecting that intent or fact, with the  
8 superintendent of the child's school district of residence or if no superintendent is employed,  
9 with the county superintendent of schools for the child's county of residence.

10           1. The statement must include:

- 11           a. The name and address of the child receiving home education;
- 12           b. The child's date of birth;
- 13           c. The child's grade level;
- 14           d. The name and address of the parent who will supervise the home education;
- 15           e. The qualifications of the parent who will supervise the home education;
- 16           f. Any public school courses in which the child intends to participate and the  
17 school district offering the courses; and
- 18           g. Any extracurricular activities in which the child intends to participate and the  
19 school district or approved nonpublic school offering the activities.

20           2. The statement must be accompanied by a copy of the child's immunization record  
21 and proof of the child's identity as required by section 54-23.2-04.2.

22           **15.1-23-03. Home education - Parental qualifications.** A parent may supervise  
23 home education if the parent:

- 24           1. Is licensed to teach by the education standards and practices board or approved to  
25 teach by the education standards and practices board;
- 26           2. Holds a baccalaureate degree;
- 27           3. Has met or exceeded the cutoff score of a national teacher exam given in this state  
28 or in any other state if this state does not offer such a test; or
- 29           4. Meets the requirements of section 15.1-23-06.

30           **15.1-23-04. Home education - Required subjects - Instructional time.** A parent  
31 supervising home education shall include instruction in those subjects required by law to be

1 taught to public school students. The instruction must have a duration of at least four hours  
2 each day for a minimum of one hundred seventy-five days each year.

3 **15.1-23-05. Home education - Academic records.** A parent supervising home  
4 education shall maintain an annual record of courses taken by the child and the child's  
5 academic progress assessments, including any standardized achievement test results. If the  
6 child transfers to a public school district, the parent shall furnish the record, upon request, to the  
7 school district superintendent or other administrator.

8 **15.1-23-06. Home education - Required monitoring of progress.** A parent who has  
9 a high school diploma or a general education development certificate may supervise home  
10 education but must be monitored in accordance with section 15.1-23-07 for the first two years.  
11 If a child receiving home education obtains a composite standardized achievement test score  
12 below the fiftieth percentile nationally, the parent must be monitored for at least one additional  
13 school year and until the child receives a test score at or above the fiftieth percentile. If testing  
14 is not required by section 15.1-23-07 during the first two years of monitoring, the period of  
15 monitoring may not be extended, except upon the mutual consent of the parent and the  
16 monitor. If a parent completes the monitoring requirements of this section for one child, the  
17 parent may not be monitored with respect to other children for whom the parent supervises  
18 home education.

19 **15.1-23-07. Home education - Required monitoring of progress - Reporting of**  
20 **progress - Compensation.**

- 21 1. If monitoring is required under section 15.1-23-06, the school district shall assign  
22 and compensate an individual to monitor a child receiving home education unless  
23 the parent notifies the school district that the parent shall select and compensate  
24 an individual to monitor the child.
- 25 2. The individual assigned by the school district or selected by the parent under  
26 subsection 1 must be licensed to teach by the education standards and practices  
27 board or approved to teach by the education standards and practices board.
- 28 3. Twice during each school year, the individual shall report the child's progress to the  
29 school district superintendent or to the county superintendent if the district does not  
30 employ a superintendent.

1           4. If one child receives home education, the individual shall spend an average of one  
2           hour per week in contact with the child and the child's parent. If two or more  
3           children receive home education, the individual shall spend one-half hour per  
4           month for each additional child receiving home education. If the child attends a  
5           public or an approved nonpublic school, the time may be proportionately reduced.

6           **15.1-23-08. Monitoring or test administration.** An individual who in accordance with  
7           this chapter monitors a child receiving home education or who administers a standardized  
8           achievement test to a child receiving home education shall notify the child's school district of  
9           residence.

10          **15.1-23-09. Home education - Standardized achievement test.** While in grades four,  
11          six, eight, and ten, each child receiving home education shall take a standardized achievement  
12          test used by the school district in which the child resides or, if requested by the parent, shall  
13          take a nationally normed standardized achievement test. The child shall take the test in the  
14          child's learning environment or, if requested by the child's parent, in a public school. An  
15          individual licensed to teach by the education standards and practices board or approved to  
16          teach by the education standards and practices board shall administer the test.

17          **15.1-23-10. Home education - Standardized achievement test - Cost.**

18          1. If a child receiving home education takes the standardized achievement test used  
19          by the school district in which the child resides, the school district is responsible for  
20          the cost of the test and for the cost of administering the test. The school district  
21          shall ensure that the test is administered by an individual who is employed by the  
22          district and who is licensed to teach by the education standards and practices  
23          board or approved to teach by the education standards and practices board.

24          2. a. If the child takes a nationally normed standardized achievement test not used  
25          by the school district in which the child resides, the child's parent is  
26          responsible for the cost of the test.

27          b. The cost of administering a test under this subsection is the responsibility of  
28          the child's parent if the test is administered by an individual who is selected by  
29          the parent. An individual selected by the child's parent to administer a test  
30          under this subsection must be licensed to teach by the education standards

1 and practices board or approved to teach by the education standards and  
2 practices board.

3 c. The cost of administering a test under this subsection is the responsibility of  
4 the school district if, at the request of the child's parent, the school district  
5 administers the test. The school district shall ensure that the test is  
6 administered by an individual who is employed by the district and who is  
7 licensed to teach by the education standards and practices board or approved  
8 to teach by the education standards and practices board.

9 **15.1-23-11. Home education - Standardized achievement test - Results.**

- 10 1. A parent supervising home education shall file the results of the child's  
11 standardized achievement test with the superintendent of the district in which the  
12 child resides or with the county superintendent if the district does not employ a  
13 superintendent.
- 14 2. If the child's basic composite score on a standardized achievement test is less than  
15 the thirtieth percentile nationally, a multidisciplinary assessment team shall assess  
16 the child for a potential learning problem under rules adopted by the  
17 superintendent of public instruction.
- 18 3. If the multidisciplinary assessment team determines that the child is not disabled  
19 and the child's parent wishes to continue home education, the parent, with the  
20 advice and consent of an individual who is licensed to teach by the education  
21 standards and practices board or approved to teach by the education standards  
22 and practices board, shall prepare a remediation plan to address the child's  
23 academic deficiencies and file the plan with the superintendent of the school  
24 district or with the county superintendent if the district does not employ a  
25 superintendent. The parent is responsible for any costs associated with the  
26 development of the remediation plan. If the parent fails to file a remediation plan,  
27 the parent is deemed to be in violation of compulsory school attendance provisions  
28 and may no longer supervise the home education of the child.

29 **15.1-23-12. Home education - Remediation plan.** The superintendent of the school  
30 district shall use the remediation plan required by section 15.1-23-11 as the basis for  
31 determining reasonable academic progress. The remediation plan must remain in effect until

1 such time as the child achieves on a standardized achievement test a basic composite score at  
2 or above the thirtieth percentile or a score, which when compared to the previous year's test  
3 score, demonstrates one year of academic progress. At the option of the parent, the test may  
4 be one required by section 15.1-23-09 or one administered in a higher grade level. The child's  
5 parent, with the advice and consent of an individual who is licensed to teach by the education  
6 standards and practices board or who is approved to teach by the education standards and  
7 practices board, may amend the remediation plan from time to time in order to accommodate  
8 the child's academic needs. If after a remediation plan is no longer in effect the child fails to  
9 demonstrate reasonable academic progress on a subsequent test required by this section, a  
10 remediation plan must again be developed and implemented.

11 **15.1-23-13. Home education - Disabilities - Individualized education plan.**

- 12 1. If a multidisciplinary assessment team, using eligibility criteria established by the  
13 superintendent of public instruction, determines that the child is disabled, that the  
14 child requires specially designed instruction due to the disability, and that this  
15 instruction cannot be provided without special education and related services, the  
16 parent may continue to supervise home education, provided that:
- 17 a. The child does not have a developmental disability;
  - 18 b. The parent files with the school district superintendent a services plan that  
19 was developed privately or through the school district; and
  - 20 c. The services plan demonstrates that the child's special needs are being  
21 addressed by persons qualified to provide special education or related  
22 services.
- 23 2. Annually, the superintendent of the child's school district of residence shall  
24 determine reasonable academic progress based on the child's services plan.
- 25 3. If a parent fails to file a services plan as required by this section, the parent is  
26 deemed to be in violation of the compulsory school attendance provisions and may  
27 no longer supervise the home education of the child.
- 28 4. A child who was once evaluated by a multidisciplinary assessment team need not  
29 be reevaluated for a potential learning problem upon scoring below the thirtieth  
30 percentile on a subsequent standardized achievement test unless the reevaluation  
31 is performed pursuant to the child's services plan.

1           **15.1-23-14. Children with autism - Home education.** Notwithstanding any other law,  
2 a parent may supervise home education for a developmentally disabled child with autism if:

- 3           1. The child has been determined to be autistic by a licensed psychologist;
- 4           2. The child's parent is qualified to supervise home education under this chapter; and
- 5           3. The child's parent files with the superintendent of the child's school district of  
6           residence:
  - 7           a. A notice that the child will receive home education;
  - 8           b. A copy of the child's diagnosis of autism prepared and attested to by a  
9           licensed psychologist; and
  - 10           c. A services plan developed and followed by the child's school district of  
11           residence and the child's parent; or, after providing written notice to the  
12           superintendent of the child's school district of residence, a substitute services  
13           plan, developed and followed, according to section 15.1-23-15, by a services  
14           plan team selected by and compensated by the child's parent.

15           **15.1-23-15. Children with autism - Home education - Progress reports.**

- 16           1. On or before November first, February first, and May first of each school year, a  
17           parent supervising home education for an autistic child under section 15.1-23-14  
18           shall file with the superintendent of the child's school district of residence progress  
19           reports prepared by the services plan team selected under section 15.1-23-14. If  
20           at any time the services plan team agrees that the child is not benefiting from home  
21           education, the team shall notify the superintendent of the child's school district of  
22           residence and request that the child be evaluated by a multidisciplinary team  
23           appointed by the superintendent of the child's school district of residence.
- 24           2. The superintendent of the child's school district of residence shall forward copies of  
25           all documentation required by this section to the superintendent of public  
26           instruction.

27           **15.1-23-16. Home education - Participation in extracurricular activities.**

- 28           1. A child receiving home education may participate in extracurricular activities either:
  - 29           a. Under the auspices of the child's school district of residence; or
  - 30           b. Under the auspices of an approved nonpublic school, if permitted by the  
31           administrator of the school.

- 1           2. For purposes of this section, a child participating under the auspices of the child's  
2           school district of residence is subject to the same standards for participation in  
3           extracurricular activities as those required of full-time students enrolled in the  
4           district.
- 5           3. For purposes of this section, a child participating under the auspices of an  
6           approved nonpublic school is subject to the same standards for participation in  
7           extracurricular activities as those required of full-time students enrolled in the  
8           school.
- 9           4. Once a child's parent has selected the public school district or the approved  
10          nonpublic school in which the child will participate for purposes of extracurricular  
11          activities and has provided notification of the selection through the statement  
12          required by section 15.1-23-02, the child is subject to the transfer rules as provided  
13          in the constitution and bylaws of the North Dakota high school activities  
14          association.

15           **15.1-23-17. Home education - High school diplomas.**

- 16          1. A child's school district of residence, an approved nonpublic high school, or the  
17          North Dakota division of independent study may issue a high school diploma to a  
18          child who, through home education, has met the issuing entity's requirements for  
19          high school graduation provided the child's parent submits to the issuing entity a  
20          description of the course material covered in each high school subject, a  
21          description of the course objectives and how the objectives were met, and a  
22          transcript of the child's performance in grades nine through twelve.
- 23          2. In the alternative, a high school diploma may be issued by the child's school district  
24          of residence, an approved nonpublic high school, or the North Dakota division of  
25          independent study provided the child, through home education, has completed at  
26          least seventeen units of high school coursework from the minimum required  
27          curriculum offerings established by law for public and nonpublic schools and the  
28          child's parent or legal guardian submits to the issuing entity a description of the  
29          course material covered in each high school subject, a description of the course  
30          objectives and how the objectives were met, and a transcript of the child's  
31          performance in grades nine through twelve. The issuing entity may indicate on a



1 diploma issued under this subsection that the child was provided with home  
2 education.

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

6 **15.1-23-18. Home education - Liability.** No state agency, school district, or county  
7 superintendent may be held liable for accepting as correct the information on the statement of  
8 intent or for any damages resulting from a parent's failure to educate the child.

9 **15.1-23-19. Home education - State aid to school districts.** For purposes of  
10 allocating state aid to school districts, a child receiving home education is deemed enrolled in  
11 the child's school district of residence if the child is monitored by an individual who is licensed to  
12 teach by the education standards and practices board or approved to teach by the education  
13 standards and practices board and employed by the public school district in which the child  
14 resides. A school district is entitled to fifty percent of the per student payment provided in  
15 section 15.1-27-04 times the appropriate factor in section 15.1-27-06 or 15.1-27-07 for each  
16 child receiving home education. If a child receiving home education is enrolled in public school  
17 classes, proportionate payments must be made. The total amount may not exceed the  
18 equivalent of one full per student payment times the appropriate weighting factor.

19 **SECTION 11.** Chapter 15.1-27 of the North Dakota Century Code is created and  
20 enacted as follows:

21 **15.1-27-01. Payments to school districts - Distribution.**

22 1. The superintendent of public instruction shall determine the total state payments  
23 made to each school district during the previous fiscal year.

24 2. The superintendent of public instruction shall pay each district ten percent of the  
25 amount determined under subsection 1, within the limits of legislative  
26 appropriation, on or before July fifteenth, August first, September first, and October  
27 first of each year.

28 3. The superintendent of public instruction shall determine the amount that, in  
29 addition to the payments already made, is necessary to constitute the remainder of  
30 the amount due each district for the current school year.

- 1           4. On or before November first, the superintendent of public instruction shall pay to  
2           each district, within the limits of legislative appropriation, an amount that, in  
3           addition to the above payments, constitutes fifty percent of the sum due under this  
4           chapter.
- 5           5. On or before the first day of December, January, February, March, and April,  
6           payments equal to twenty percent of the total remaining payments must be made  
7           to each district.
- 8           6. If funds appropriated for distribution to districts as per student and transportation  
9           aid become available after April first, the superintendent of public instruction shall  
10          distribute the newly available payments on or before June thirtieth.

11          **15.1-27-02. Per student payments - Required reports.**

- 12          1. The superintendent of public instruction may not forward state aid payments to a  
13          school district beyond the October payment unless the district has filed the  
14          following with the superintendent:
- 15               a. An annual average daily membership report.  
16               b. An annual school district financial report.  
17               c. The September tenth fall enrollment report.  
18               d. The personnel report forms for licensed and nonlicensed employees.
- 19          2. On or before December fifteenth, each school district shall file with the  
20          superintendent of public instruction the taxable valuation and mill levy certifications.  
21          If a district fails to file the taxable valuation and mill levy certifications by the  
22          required date, the superintendent of public instruction may not forward to the  
23          district any state aid payments to which the district is entitled, until the taxable  
24          valuation and mill levy certifications are filed.

25          **15.1-27-03. Cost of education - Determination.**

- 26          1. The superintendent of public instruction shall determine the educational cost per  
27          student.
- 28          2. In determining the educational cost per student, the superintendent may not use:  
29               a. Capital outlay for buildings.  
30               b. Capital outlay for sites.  
31               c. Capital outlay for debt service.

- 1 d. Expenditures for school activities.
- 2 e. Expenditures for school lunch programs.
- 3 f. Expenditures for transportation costs, including schoolbuses.

4 **15.1-27-04. Per student payment.** The per student payment to which each school  
5 district is entitled for the first year of the biennium is two thousand one hundred forty-five  
6 dollars. The per student payment to which each school district is entitled for the second year of  
7 the biennium is two thousand two hundred thirty dollars. The per student amount is the basis  
8 for calculating state payments to school districts, as provided in sections 15.1-27-06 and  
9 15.1-27-07.

10 **15.1-27-05. School district equalization factor.** To determine the amount of  
11 payments due a school district, the superintendent of public instruction shall add the tuition  
12 apportionment payments, per student payments, special education aid, and transportation aid  
13 for which a school district is eligible and from that total subtract the following:

- 14 1. The product of thirty-two mills times the latest available net assessed and  
15 equalized valuation of property in the district.
- 16 2. The amount by which the unobligated general fund balance of the district on the  
17 preceding June thirtieth is in excess of seventy-five percent of its actual  
18 expenditures plus twenty thousand dollars.

19 **15.1-27-06. Per student payments - Weighting factors - High school students.**  
20 The superintendent of public instruction shall make payments each year, as provided for in this  
21 section, to each school district operating a high school and to each school district contracting to  
22 educate high school students in a federal school, subject to adjustment as provided in section  
23 15.1-27-21.

- 24 1. Each district having under seventy-five students in average daily membership in  
25 grades nine through twelve is entitled to receive the amount of money that results  
26 from multiplying the factor 1.625 adjusted by seventy-five percent of the difference  
27 between 1.625 and the factor representing the five-year average cost of education  
28 per student for this category, as determined by the superintendent of public  
29 instruction, by the number of students in grades nine through twelve who are  
30 registered in that district, times the per student payment provided for in section  
31 15.1-27-04.

- 1           2. Each district having at least seventy-five but fewer than one hundred fifty students  
2           in average daily membership in grades nine through twelve is entitled to receive  
3           the amount of money that results from multiplying the factor 1.335 adjusted by  
4           seventy-five percent of the difference between 1.335 and the factor representing  
5           the five-year average cost of education per student for this category, as determined  
6           by the superintendent of public instruction, by the number of students in grades  
7           nine through twelve who are registered in that district, times the per student  
8           payment provided for in section 15.1-27-04.
- 9           3. Each district having at least one hundred fifty but fewer than five hundred fifty  
10           students in average daily membership in grades nine through twelve is entitled to  
11           receive the amount of money that results from multiplying the factor 1.24 adjusted  
12           by seventy-five percent of the difference between 1.24 and the factor representing  
13           the five-year average cost of education per student for this category, as determined  
14           by the superintendent of public instruction, by the number of students in grades  
15           nine through twelve who are registered in that district, times the per student  
16           payment provided for in section 15.1-27-04.
- 17           4. Each district having at least five hundred fifty students in average daily  
18           membership in grades nine through twelve is entitled to receive the amount of  
19           money that results from multiplying the factor 1.14 adjusted by seventy-five percent  
20           of the difference between 1.14 and the factor representing the five-year average  
21           cost of education per student for this category, as determined by the  
22           superintendent of public instruction, by the number of students in grades nine  
23           through twelve who are registered in that district, times the per student payment  
24           provided for in section 15.1-27-04.
- 25           5. Each district having an approved alternative high school education program is  
26           entitled to receive the amount of money that results from multiplying the factor in:
  - 27           a. Subsection 1 by the number of students registered in the alternative education  
28           program, times the per student payment provided for in section 15.1-27-04, if  
29           fewer than seventy-five students in average daily membership are enrolled in  
30           the alternative education program.

- 1           b. Subsection 2 by the number of students registered in the alternative education  
2           program, times the per student payment provided for in section 15.1-27-04, if  
3           at least seventy-five but fewer than one hundred fifty students in average daily  
4           membership are enrolled in the alternative education program.
- 5           c. Subsection 3 by the number of students registered in the alternative education  
6           program, times the per student payment provided for in section 15.1-27-04, if  
7           at least one hundred fifty but fewer than five hundred fifty students in average  
8           daily membership are enrolled in the alternative education program.
- 9           d. Subsection 4 by the number of students registered in the alternative education  
10          program, times the per student payment provided for in section 15.1-27-04, if  
11          at least five hundred fifty students in average daily membership are enrolled in  
12          the alternative education program.
- 13          6. In order to be eligible for enumeration under this section, a student:
- 14           a. Must have completed the work of the eighth grade;
- 15           b. Must not have completed the work of the twelfth grade; and
- 16           c. Must be a resident of this state or a nonresident attending a school in this  
17           state under the auspices of a foreign student exchange program.

18           **15.1-27-07. Per student payments - Weighting factors - Elementary school**

19 **students.** The superintendent of public instruction shall make payments each year, as  
20 provided for in this section, to each school district operating an elementary school and to each  
21 school district contracting to educate elementary students in a federal school, subject to  
22 adjustment as provided in section 15.1-27-21.

- 23          1. a. Each district having only a one-room rural school is entitled to receive the  
24          amount of money that results from multiplying the factor 1.28 adjusted by  
25          seventy-five percent of the difference between 1.28 and the factor  
26          representing the five-year average cost of education per student for this  
27          category, as determined by the superintendent of public instruction, by the  
28          number of students in average daily membership in grades one through eight  
29          in that school, times the per student payment provided for in section  
30          15.1-27-04. The payment level provided for in this subdivision is applicable  
31          only to the first sixteen students.

- 1           b. If the one-room rural school has more than sixteen students in average daily  
2           membership in grades one through eight, the district in which the school is  
3           located is entitled to receive ninety percent of the per student payment  
4           provided for in section 15.1-27-04 for each additional student. The district is  
5           not entitled to any payment for more than twenty students in average daily  
6           membership.
- 7           c. If a one-room rural school is located in a district having another elementary  
8           school, the weighting factor for the students in grades one through six must  
9           be based on the average daily membership in the district in grades one  
10          through six, as provided in this section.
- 11          d. If a one-room rural school is located in a school district with another school  
12          that has students in grade seven or eight, the weighting factor for the students  
13          in grade seven or eight must be the same as that provided for in subsection 5.
- 14          2. Except as provided in subsection 1, each school district having fewer than one  
15          hundred students in average daily membership in grades one through six is entitled  
16          to receive the amount of money that results from multiplying the factor 1.09  
17          adjusted by seventy-five percent of the difference between 1.09 and the factor  
18          representing the five-year average cost of education per student for this category,  
19          as determined by the superintendent of public instruction, by the number of  
20          students in average daily membership in grades one through six in the district,  
21          times the per student payment provided for in section 15.1-27-04. The payment  
22          provided for in this subsection is applicable only to the first twenty-five students in  
23          average daily membership per classroom or per teacher.
- 24          3. Each school district having at least one hundred students but fewer than one  
25          thousand students in average daily membership in grades one through six is  
26          entitled to receive the amount of money that results from multiplying the factor .905  
27          adjusted by seventy-five percent of the difference between .905 and the factor  
28          representing the five-year average cost of education per student for this category,  
29          as determined by the superintendent of public instruction, by the number of  
30          students in average daily membership in grades one through six in the district,  
31          times the per student payment provided for in section 15.1-27-04. The payment

- 1 provided for in this subsection is applicable only to the first thirty students in  
2 average daily membership per classroom or per teacher.
- 3 4. Each school district having at least one thousand students in average daily  
4 membership in grades one through six is entitled to receive the amount of money  
5 that results from multiplying the factor .95 adjusted by seventy-five percent of the  
6 difference between .95 and the factor representing the five-year average cost of  
7 education per student for this category, as determined by the superintendent of  
8 public instruction, by the number of students in average daily membership in  
9 grades one through six in the district, times the per student payment provided for in  
10 section 15.1-27-04. The payment provided for in this subsection is applicable only  
11 to the first thirty students in average daily membership per classroom or per  
12 teacher.
- 13 5. Each school district having students in grades seven and eight is entitled to receive  
14 the amount of money that results from multiplying the factor 1.01 adjusted by  
15 seventy-five percent of the difference between 1.01 and the factor representing the  
16 five-year average cost of education per student for this category, as determined by  
17 the superintendent of public instruction, by the number of students in average daily  
18 membership in grades seven and eight in the district, times the per student  
19 payment provided for in section 15.1-27-04. The payment provided for in this  
20 subsection is applicable only to the first thirty students in average daily  
21 membership per classroom or per teacher. The payments provided for in this  
22 subsection are not available for students who attend a one-room rural school if that  
23 school is the only one in the district that offers educational services to students in  
24 grades seven and eight.
- 25 6. Each school district having a special education program approved by the director  
26 of special education is entitled to receive, for each student who is enrolled in the  
27 program and who is at least three years of age but less than the compulsory age  
28 for school attendance, the amount of money that results from multiplying the factor  
29 1.01 adjusted by seventy-five percent of the difference between 1.01 and the factor  
30 representing the five-year average cost of education per student for this category,  
31 as determined by the superintendent of public instruction, by the number of special

- 1 education students in average daily membership in the program who are at least  
2 three years of age but less than the compulsory age for school attendance, times  
3 the per student payment provided for in section 15.1-27-04.
- 4 7. a. Each school district operating a kindergarten as provided for in section  
5 15.1-22-02 is entitled to receive the amount of money that results from  
6 multiplying the factor .50 and the factor representing the five-year average  
7 cost of education per student for this category, as determined by the  
8 superintendent of public instruction, by the number of kindergarten students in  
9 average daily membership in the district, times the per student payment  
10 provided for in section 15.1-27-04. The payment provided for in this  
11 subsection is applicable only to the first twenty-five students in average daily  
12 membership per classroom or per teacher.
- 13 b. In order to receive the full per student payment available under this section, a  
14 district must operate a kindergarten program that provides the equivalent of  
15 ninety full days of classroom instruction during a twelve-month period. A  
16 district is entitled to a prorated payment under this section if it operates a  
17 kindergarten program of shorter duration.
- 18 8. Each school district that educates students who are also enrolled in nonpublic  
19 schools is entitled to receive proportionate payments under this section.
- 20 9. Each school district is entitled to receive as much in total payments for elementary  
21 students as it would have received if it had the highest number of students in the  
22 next lower category.
- 23 10. A school district is not entitled to any payments provided for by this chapter unless  
24 each teacher employed by the district:
- 25 a. Holds a teaching license issued by the education standards and practices  
26 board; or
- 27 b. Has been approved to teach by the education standards and practices board.
- 28 **15.1-27-08. Per student payments - Unaccredited high schools.** If a high school  
29 becomes unaccredited, the per student payment to which the school district is entitled during  
30 the first year in which the high school is unaccredited is the amount established in section  
31 15.1-27-04. The school district is not entitled to the amount that results from applying the



1 weighting factors provided in section 15.1-27-06. In each successive year, the per student  
2 payment to which the school district is entitled for each student in the unaccredited high school  
3 must be reduced by an additional two hundred dollars. If a school regains its accreditation, the  
4 school is entitled to the per student payments provided for accredited schools for the entire  
5 school year in which the school becomes accredited.

6 **15.1-27-09. Per student payments - Unaccredited elementary schools.** If a school  
7 district operates an unaccredited elementary school, the per student payment to which the  
8 school district is entitled during the first year in which the elementary school is unaccredited is  
9 the amount established in section 15.1-27-04. The school district is entitled to the amount that  
10 results from applying the weighting factors provided in section 15.1-27-07. In each successive  
11 year, the per student payment to which the school district is entitled for each student in the  
12 unaccredited elementary school must be reduced by an additional two hundred dollars. If a  
13 school regains its accreditation, the school is entitled to the per student payments provided for  
14 accredited schools for the entire school year in which the school becomes accredited.

15 **15.1-27-10. Per student payments - Special education.**

16 1. Except as provided in subsection 2, each biennium the superintendent of public  
17 instruction shall distribute moneys appropriated by the legislative assembly for per  
18 student special education payments to each school district in the state on the basis  
19 of students in average daily membership. The superintendent of public instruction  
20 shall forward the payments, as calculated under section 15.1-27-05, to eligible  
21 school districts in the same manner and at the same time that the superintendent  
22 distributes per student and transportation aid payments. For purposes of this  
23 section, "special education" means the provision of special services to students  
24 who have special needs, including students who are gifted and talented.

25 Expenditures under this section may not conflict with nonsupplanting and  
26 maintenance of effort provisions under the Individuals With Disabilities Education  
27 Act, 20 United States Code 1400 et seq.

28 2. Upon the written request of a school district, the superintendent of public  
29 instruction may forward all or a portion of the moneys to which the school district is  
30 entitled under this section directly to the special education unit of which the school  
31 district is a member.

1           3. The superintendent of public instruction may withhold state special education funds  
2           due a school district if, in response to a complaint, the superintendent finds that the  
3           district is not providing a free appropriate public education to a student as required  
4           by law. Any withholding under this subsection may not exceed an amount equal to  
5           the cost of meeting the affected student's needs.

6           **15.1-27-11. High school districts - Supplemental payments.** The superintendent of  
7           public instruction shall calculate the average valuation of property per student by dividing the  
8           number of students in average daily membership in grades one through twelve in a high school  
9           district into the district's latest available net assessed and equalized taxable valuation of  
10          property. If the quotient is less than the latest available statewide average taxable valuation per  
11          student and if the district's educational expenditure per student is below the most recent  
12          available statewide average cost of education per student, the superintendent of public  
13          instruction shall:

- 14          1. Determine the difference between the latest available statewide average taxable  
15          valuation per student and the average taxable valuation per student in the high  
16          school district;
- 17          2. Multiply the result determined under subsection 1 by the number of students in  
18          average daily membership in grades one through twelve in the high school district;
- 19          3. Multiply the result determined under subsection 2 by the number of general fund  
20          mills levied by the district in excess of one hundred fifty, provided that any mills  
21          levied by the district which are in excess of two hundred ten may not be used in  
22          this calculation; and
- 23          4. Multiply the result determined under subsection 3 by thirty percent. The result is  
24          the supplemental payment to which a high school district is entitled, in addition to  
25          any other amount provided under chapter 15.1-27.

26          **15.1-27-12. Per student payments - Limited English proficient students.**

- 27          1. In addition to any other payments provided for by this chapter, each school district  
28          is entitled to receive four hundred dollars for each student who has been assessed  
29          by the student's school district and determined to have negligible or very limited  
30          English language skills as evidenced by a classification of level I or II using the  
31          Woodcock-Munoz language survey.

1           2.    In order to receive the full payment provided for in this section, a school district  
2                    must complete the student assessment required by subsection 1 and forward the  
3                    results to the superintendent of public instruction on or before October twenty-fifth  
4                    of each school year. The superintendent shall distribute the payments no later  
5                    than May thirtieth of each school year. The superintendent shall prorate payments  
6                    under this section for any students registering in the school district after October  
7                    first or departing from the school district prior to the completion of the school year.

8           **15.1-27-13. Per student payments - Students on active duty.** A school district is  
9                    entitled to receive payments under this chapter for a student who is absent up to one semester  
10                   because the student is a member of the North Dakota national guard and is engaged in active  
11                   duty or training within or outside the state.

12           **15.1-27-14. Per student payments - Students attending school out of state.** For  
13                   each student attending school out of state in accordance with section 15.1-29-01, the weighting  
14                   factors provided in sections 15.1-27-06 and 15.1-27-07 must be increased by twenty percent.

15           **15.1-27-15. Per student payments - Isolated schools.**

16           1.    If an elementary school has fewer than fifty students and fifteen percent or more of  
17                   its students would have to travel beyond a fifteen-mile [24.15-kilometer] radius from  
18                   their residences in order to attend another school, the weighting factor provided  
19                   under section 15.1-27-07 must be increased by twenty percent for the first fifteen  
20                   students. If the school has fewer than fifteen students, the payment received must  
21                   be for fifteen students.

22           2.    If a high school has fewer than thirty-five students and fifteen percent or more of its  
23                   students would have to travel beyond a twenty-mile [32.2-kilometer] radius from  
24                   their residences in order to attend another school, the weighting factor provided  
25                   under section 15.1-27-06 must be increased by twenty percent for the first twenty  
26                   students. If the school has fewer than twenty students, the payment received must  
27                   be for twenty students.

28           **15.1-27-16. Per student payments - Cooperating districts.** If, on or after July 1,  
29                   1997, any school district receiving payments under this chapter cooperates with another school  
30                   district for the joint provision of educational services under a plan approved by the  
31                   superintendent of public instruction, each cooperating district is entitled to receive, for a period

1 of four years, at least the same per student payment for each high school and elementary  
2 student as the district received prior to initiation of the cooperative plan.

3 **15.1-27-17. Per student payments - Reorganization of school districts.**

- 4 1. If any school district receiving per student payments calculated under section  
5 15.1-27-06 reorganized with another school district under chapter 15.1-12 before  
6 August 1, 1997, the school district resulting from the reorganization is entitled to  
7 receive the same per student payments for each high school student as each  
8 separate school district received for each high school student prior to the  
9 reorganization, for a period of four years.
- 10 2. If any school district receiving per student payments calculated under this chapter  
11 reorganizes with another school district under chapter 15.1-12 after July 31, 1997,  
12 the school district resulting from the reorganization is entitled to receive the same  
13 per student payments for each high school and elementary student as each  
14 separate school district received for each high school and elementary student prior  
15 to the reorganization, for a period of four years.
- 16 3. The weighting factor for each district will be adjusted proportionately over a period  
17 of two years, following the period of time provided in subsection 1 or 2, until the  
18 adjusted weighting factor equals the weighting factor for the combined enrollment  
19 resulting from the reorganization.
- 20 4. Notwithstanding the provisions of any other law, no school district may receive less  
21 in per student payments for the first year of its reorganization than the total amount  
22 that the districts participating in the reorganization received in per student  
23 payments for the school year immediately preceding the reorganization. If less  
24 than a whole school district participated in a reorganization, the superintendent of  
25 public instruction shall prorate the payments to which the newly reorganized district  
26 is entitled under this subsection.

27 **15.1-27-18. Per student payments - Eligibility - Minimum amounts.**

- 28 1. In order to be counted for the purpose of calculating per student payments, as  
29 provided for by this chapter, a high school student must be enrolled in at least four  
30 high school units. The units may include vocational education courses offered in

- 1 accordance with chapter 15-20.1 and courses that are approved by the  
2 superintendent of public instruction and offered by another high school district.
- 3 2. If a student is enrolled for graduation in a nonpublic school or if a student is taking  
4 fewer than four high school units and is enrolled in an approved alternative high  
5 school education program, the school district in which the student is enrolled is  
6 entitled to receive proportionate payments.
- 7 3. Each high school district must receive at least as much in total per student  
8 payments as it would have received if it had the highest number of students in the  
9 next lower weighting category.

10 **15.1-27-19. Summer school courses and programs - Proportionate payments.**

- 11 1. Each school district that offers summer school courses at the high school level is  
12 entitled to receive proportionate payments provided each course offered satisfies  
13 requirements for graduation, comprises at least as many clock-hours as courses  
14 offered during the regular school term, and complies with rules adopted by the  
15 superintendent of public instruction.
- 16 2. A school district that offers remedial summer school programs at the elementary  
17 level is entitled to receive proportionate payments provided the programs comply  
18 with rules adopted by the superintendent of public instruction.
- 19 3. The superintendent of public instruction may adopt rules regarding proportionate  
20 payments for remedial summer school programs at the elementary level and  
21 summer school courses at the high school level.
- 22 4. Proportionate payments made under this section during a biennium for summer  
23 school courses or programs may not exceed one and one-half percent of the total  
24 amount appropriated by the legislative assembly for per student and transportation  
25 aid payments during the biennium, or eight million dollars, whichever is less. No  
26 more than seventy-five percent of the amount made available under this  
27 subsection may be used to support summer school courses at the high school level  
28 and no more than twenty-five percent of the amount made available under this  
29 subsection may be used to support remedial summer school programs at the  
30 elementary level.

31 **15.1-27-20. Per student payments - Claim by school district - Appeal.**

- 1           1.    Upon the completion of student registration and in no event later than September  
2                    tenth of each year, the business manager of a school district claiming payments  
3                    from state funds under the provisions of this chapter shall file a claim in the manner  
4                    prescribed by the superintendent of public instruction. The business manager  
5                    must provide the number of registered high school and elementary school students  
6                    for whom payments are claimed and any other information requested by the  
7                    superintendent of public instruction.
- 8           2.    The superintendent of public instruction shall compute the per student payments  
9                    on the basis of the previous year's average daily membership less the number of  
10                   students attending school during the current school year in another district under  
11                   the provisions of open enrollment or the current year's fall enrollment, whichever  
12                   provides the greater total payment. The superintendent shall make adjustments in  
13                   the subsequent year according to a comparison between the average daily  
14                   membership for the year for which the adjusted payment is being made and the  
15                   year preceding the year for which the adjusted payment is being made, whichever  
16                   is greater, for grade levels that existed in both years. The greater of the two  
17                   preceding years' average daily membership must be used in computing any  
18                   adjustment in a district's per student aid payments.
- 19          3.    School districts educating children of agricultural migratory workers and school  
20                   districts offering high school summer courses during the months of June, July, and  
21                   August are not restricted to payments for a one hundred eighty-day school term.
- 22          4.    Upon termination of the school year and in no event later than July fifteenth, the  
23                   business manager of each school district that has received payments from state  
24                   funds under the provisions of this chapter shall file with the county superintendent  
25                   of schools a verified statement of the name, residence, and membership of each  
26                   student and the units of high school work taken by each student enrolled during the  
27                   previous school year. The county superintendent shall investigate the validity of  
28                   the statement and shall determine the residence and other qualifications of each  
29                   student named in the statement. The county superintendent of schools shall attest  
30                   to the statement. On or before September first of each year, the county  
31                   superintendent shall certify to the superintendent of public instruction the number

1 of students enrolled in each district in the county for the previous school year upon  
2 which any adjustment may be based. If the county superintendent disallows any  
3 statement in whole or in part, the county superintendent shall provide notice of the  
4 disallowance, together with the names of the affected students, to the  
5 superintendent of public instruction and to the school district filing the statement.

6 5. A district may appeal the determination of a county superintendent to the  
7 superintendent of public instruction on or before September fifteenth of the year in  
8 which the determination is made. The superintendent of public instruction may  
9 modify the determination of the county superintendent if the evidence submitted by  
10 the district justifies a modification. The judgment of the superintendent of public  
11 instruction is final.

12 **15.1-27-21. Payment to school district - Property valuation changes.**

- 13 1. If the taxable valuation of property is diminished because real property is  
14 reclassified as personal property as a result of legislative or judicial action, the  
15 state payment to an affected school district must be based on the diminished  
16 valuation in the year in which it is paid to the district.
- 17 2. If the state payment to a school district is based upon a determination of property  
18 valuation that is later diminished by legislative or judicial action, the district has one  
19 year from the date of the final determination or adjudication of the property tax  
20 base adjustment within which to apply to the superintendent of public instruction for  
21 a supplemental state payment in an amount equaling the difference between the  
22 amount that the district received and the amount that the district would have  
23 received if the correct property tax base had been used.
- 24 3. A school district is entitled to the supplemental state payment provided by this  
25 section even if the payment is made in a succeeding biennium.
- 26 4. The superintendent of public instruction shall pay the amount due under this  
27 section within the limits of legislative appropriations for per student payments and  
28 transportation aid.

29 **15.1-27-22. Insufficient moneys - Fractional payments.** If moneys in the state  
30 general fund are insufficient to make all payments to school districts, the superintendent of  
31 public instruction shall prorate the payments on a fractional basis. As additional moneys come

1 into the fund, payments may be made until the school districts receive all moneys to which they  
2 are entitled. If an appropriation made by the legislative assembly is inadequate to meet all  
3 claims against the appropriation and is therefore the cause of the insufficiency, the prorated  
4 fractional payments made under this section constitute payment in full.

5 **15.1-27-23. Weather or other emergency conditions - Closure of schools - State**  
6 **payments to school districts.** If because of severe weather or other emergency conditions a  
7 school or school district remains closed or provides less than a full day of instruction, the school  
8 or school district shall make every effort to reschedule classes so that students receive at least  
9 one hundred seventy-three full days of instruction. Any school or school district for which the  
10 rescheduling of classes would create undue hardship may request that, for purposes of  
11 calculating state payments to the school or school district, the governor waive the rescheduling  
12 in whole or in part. The governor may not grant a waiver for less than a full day of instruction.

13 **15.1-27-24. Taylor Grazing Act funds - Disposition.** The state treasurer shall  
14 apportion payments from the federal government to this state under the provisions of 43 United  
15 States Code 315i (the Taylor Grazing Act) among the counties in the state in the proportion that  
16 the number of acres [hectares] of Taylor Grazing Act land in each county bears to the total  
17 amount of Taylor Grazing Act land in the state. The state treasurer shall make the distributions  
18 to school districts in each county on the basis of average daily membership of all students  
19 residing within the county.

20 **15.1-27-25. Royalties available under federal law - Distribution to counties and**  
21 **school districts - Continuing appropriation.**

- 22 1. Any money paid to the state by the secretary of the treasury of the United States  
23 under the provisions of an Act of Congress entitled "An Act to promote the mining  
24 of coal, phosphate, oil, oil shale, gas, and sodium on the public domain" [Pub. L.  
25 66-146; 41 Stat. 437; 30 U.S.C. 181 et seq.] must be credited to the state general  
26 fund and must be distributed only pursuant to the terms of this section.
- 27 2. Within three months following the calendar quarters ending in March, June,  
28 September, and December, the state auditor shall certify to the state treasurer the  
29 amount of money the state received during the preceding calendar quarter for  
30 royalties under the Act of Congress cited in subsection 1.



- 1           3.    The state treasurer shall allocate the percentage of the total moneys received as  
2                    required by this section among the counties in which the minerals were produced  
3                    based on the proportion each county's mineral royalty revenue bears to the total  
4                    mineral royalty revenue received by the state for that calendar quarter. The state  
5                    treasurer shall pay the amount calculated to each county.
- 6           4.    The counties may use any money received under this section only for the planning,  
7                    construction, and maintenance of public facilities and the provision of public  
8                    services.
- 9           5.    The percentage of money received by the state under the Act of Congress cited in  
10                   subsection 1 which must be allocated and paid to the counties under this section is  
11                   ten percent for collections in 2000, twenty percent for collections in 2001, thirty  
12                   percent for collections in 2002, forty percent for collections in 2003, and fifty  
13                   percent for collections in 2004 and thereafter.
- 14          6.    Any remaining money received by the state under the Act of Congress cited in  
15                   subsection 1 must be distributed to school districts as provided for in this chapter.  
16                   Any moneys distributed under this subsection are deemed the first moneys  
17                   withdrawn or expended from the general fund for the purpose of state aid to school  
18                   districts.
- 19          7.    The funds needed to make the distribution to counties, as provided for in this  
20                   section, are hereby appropriated on a continuing basis.

21           **15.1-27-26. School district transportation of students - Payments.**

- 22          1.    Each school district providing transportation to students in contract schoolbuses or  
23                   in district-owned and operated schoolbuses, and each school district with students  
24                   riding commercial buses to and from school is entitled to receive the following  
25                   amounts:
- 26                a.    Twenty-five cents per mile [1.61 kilometers] for each schoolbus and school  
27                   vehicle having a capacity of nine or fewer students and transporting students  
28                   who reside outside the incorporated limits of the city in which the students'  
29                   school is located.
- 30                b.    Sixty-seven cents per mile [1.61 kilometers] for each schoolbus and school  
31                   vehicle having a capacity of ten or more students and transporting students

- 1                   who reside outside the incorporated limits of the city in which the students'  
2                   school is located.
- 3                   c.   Twenty-five cents per mile [1.61 kilometers] for each schoolbus and school  
4                   vehicle transporting students who reside within the incorporated limits of a city  
5                   in which the students' school is located.
- 6                   d.   Twenty cents for each one-way trip by a student who rides a schoolbus or a  
7                   commercial bus to or from school and who resides within the incorporated  
8                   limits of the city in which the student's school is located.
- 9                   2.   A school district that is entitled to payments for a schoolbus having a capacity of  
10                  ten or more students is also entitled to receive forty cents per day for each public  
11                  school student who resides outside the city limits and who is transported in such a  
12                  bus.
- 13                  3.   Only a school district abiding by the laws of this state with respect to schoolbus  
14                  standards and schoolbus driver qualifications, as determined by the superintendent  
15                  of public instruction, may receive payments under this section.
- 16                  4.   For each student transported by family transportation in accordance with section  
17                  15.1-30-02, a school district is entitled to receive forty cents per day for each mile  
18                  [1.61 kilometers] over two miles [3.22 kilometers] measured from the front door of  
19                  the school attended by the student to the front door of the student's residence,  
20                  according to the most convenient route of public travel.

21                   **15.1-27-27. School district transportation of special education students -**

22                   **Payments.**

- 23                  1.   Each school district is entitled to receive the following for transporting students  
24                  enrolled in special education programs:
- 25                  a.   If the district transports nine or fewer students per vehicle, the amount  
26                  provided in section 15.1-27-26 for the transportation of nine or fewer students  
27                  per vehicle.
- 28                  b.   If the district transports ten or more students per vehicle, the amount provided  
29                  in section 15.1-27-26 for the transportation of students in a vehicle having a  
30                  capacity of ten or more.

- 1           2.    Except as provided in subsection 3, a school district entitled to payments under this  
2                    section is entitled to transportation aid for all miles [kilometers] traveled and for  
3                    each student transported, even if a student lives within the incorporated limits of  
4                    the city in which the student's school is located.
- 5           3.    A school district may not receive more than one per student payment for  
6                    transportation of a student regardless of the frequency with which the student is  
7                    transported during any one day.
- 8           4.    Notwithstanding any other law, the superintendent of public instruction shall make  
9                    the payments due a school district under this section directly to a multidistrict  
10                  special education unit if requested to do so by the school district.

11           **15.1-27-28. School district transportation of vocational and technical education**  
12 **students - Payments.**

- 13           1.    Each school district is entitled to receive an amount for transporting students to  
14                    and from schools in other districts and to and from schools within the district for  
15                    vocational and technical education courses offered through cooperative  
16                    arrangements approved by the state board for vocational and technical education.  
17                    The amount must be the same for mileage and per day payments as that provided  
18                    in subdivisions a through c of subsection 1 of section 15.1-27-26.
- 19           2.    A school district may not receive more than one per student payment for  
20                    transportation of a student regardless of the frequency with which the student is  
21                    transported during any one day.
- 22           3.    Notwithstanding any other law, the superintendent of public instruction shall make  
23                    the payments due a school district under this section directly to an area vocational  
24                    and technology center if requested to do so by the school district.

25           **15.1-27-29. Transportation payments - Certification of information.**

- 26           1.    On or before July fifteenth of each year, the business manager of a school district  
27                    shall certify to the county superintendent of schools the following information  
28                    regarding the buses that transported students residing outside the incorporated  
29                    limits of the city in which their school was located:
  - 30                    a.    The number of buses operated on a contract basis or owned and operated by  
31                          the district;

- 1           b. The manufacturer's listed passenger capacity of each bus; and
- 2           c. The daily mileage that each bus traveled in transporting students.
- 3        2. On or before July fifteenth of each year, the business manager of a school district
- 4           shall certify to the county superintendent of schools the following information
- 5           regarding the schoolbuses or commercial buses that transported students residing
- 6           within the incorporated limits of the city in which their school was located:
- 7           a. A city plat indicating the location of each school building;
- 8           b. The route traveled by each bus;
- 9           c. The manufacturer's listed passenger capacity of each bus; and
- 10          d. The number of one-way bus trips taken during the school year by students
- 11           residing within the city limits.
- 12        3. On or before July fifteenth of each year, the business manager of each school
- 13           district shall certify to the county superintendent of schools the amount of
- 14           transportation payments claimed and any other information required by the
- 15           superintendent of public instruction.
- 16        4. On or before September first of each year, the county superintendent of schools
- 17           shall:
- 18           a. Certify to the superintendent of public instruction all claims for transportation
- 19           payments submitted by each school district in the county; and
- 20           b. Notify a school district of any claims for transportation payments that have
- 21           been disallowed.
- 22        5. A district may appeal the decision of a county superintendent under subsection 4 to
- 23           the superintendent of public instruction on or before September fifteenth of the year
- 24           in which the determination is made. The superintendent of public instruction may
- 25           modify the determination of the county superintendent. The judgment of the
- 26           superintendent of public instruction is final.
- 27        6. For purposes of this section, daily mileage means twice the distance computed to
- 28           the nearest tenth of a mile [160.93 meters] traveled in a single trip by each bus
- 29           over its scheduled route.

30        **15.1-27-30. School district closure - Distribution of transportation payments.**

- 1           1. If a school district ceases to exist, the superintendent of public instruction shall  
2           calculate the amount of transportation payments to which the former school district  
3           would have been entitled for providing transportation services during its final year  
4           of operation and shall pay a percentage of the total amount to each North Dakota  
5           school district that enrolls students who attended the former school district during  
6           the prior school year. Each of the school districts eligible for a payment under this  
7           section is entitled to receive that percentage of the total amount which is the same  
8           as the percentage that the number of the district's students who attended the  
9           former school district during the prior school year bears to the total number of  
10          students who attended the former school district during the prior school year.
- 11          2. The superintendent of public instruction shall pay the amount to which a school  
12          district is entitled under this section in the manner and at the time provided for  
13          other state payments in section 15.1-27-01.

14          **15.1-27-31. State transportation payments to school districts.**

- 15          1. The superintendent of public instruction shall forward transportation aid payments  
16          to school districts in the same manner and at the same time as other payments  
17          from the state to school districts are made, as provided in section 15.1-27-01.
- 18          2. No school district may receive more than ninety percent of the actual costs it incurs  
19          in the provision of transportation services.
- 20          3. For purposes of this section, actual costs include the transportation operating  
21          expenditures reported to the superintendent of public instruction for the most  
22          recent year plus the eight-year average cost of transportation equipment  
23          determined by the superintendent of public instruction. Any district that has  
24          contracted for transportation services, however, may determine its actual costs for  
25          the first year the district provides its own transportation services by using the  
26          statewide average cost of transportation during that first year.

27          **15.1-27-32. School district closure - Distribution of per student special education**  
28          **payments.**

- 29          1. If a school district ceases to exist, the superintendent of public instruction shall  
30          calculate the amount of per student special education payments to which the  
31          former school district would have been entitled under section 15.1-27-10 for the

1 provision of special education services during its final year of operation and shall  
2 pay a percentage of the total amount to each North Dakota school district that  
3 enrolls students who attended the former school district during the prior school  
4 year. Each of the school districts eligible for a payment under this section is  
5 entitled to receive that percentage of the total amount which is the same as the  
6 percentage that the number of the district's students who attended the former  
7 school district during the prior school year bears to the total number of students  
8 who attended the former school district during the prior school year.

9 2. The superintendent of public instruction shall make payments under this section in  
10 the manner and at the time provided for other state payments in section  
11 15.1-27-01.

12 **15.1-27-33. Nonoperating school districts - Education of students - State**  
13 **payments.**

14 1. Notwithstanding any other law, a school district operating on July 1, 1999, may  
15 become a nonoperating district, provided:

16 a. The board of the district terminates the operation of all public schools in the  
17 district;

18 b. The board provides for the education in other school districts of all  
19 kindergarten, elementary, and secondary school students residing in the  
20 district; and

21 c. The board pays to each school district educating its students the full per  
22 student cost of education in the receiving district.

23 2. The board of a nonoperating school district shall continue to employ, on a full-time  
24 or a part-time basis, one person qualified to manage the finances of the district.

25 3. The board of a nonoperating school district is governed by all laws applicable to  
26 the board of an operating school district.

27 4. In lieu of all other state payments, a nonoperating school district under this section  
28 is entitled to receive an amount equal to the per student payment determined  
29 under section 15.1-27-04 and multiplied by the number of students ages six  
30 through seventeen who reside in the district, as established by the latest available

1 school district census, less the product of thirty-two mills times the latest available  
2 net assessed and equalized valuation of property of the school district.

3 5. A school district may be nonoperational for no more than three school years.

4 6. At or before the conclusion of the three-year period, the nonoperating school  
5 district must become, through reorganization or dissolution, part of one or more  
6 operating school districts.

7 7. A school district that has become a nonoperating district and has accepted state  
8 payments, as provided for by this section, may not revert to an independent  
9 operating district.

10 **15.1-27-34. Transfer of funds prohibited - Youth correctional center.** The  
11 superintendent of public instruction may not transfer any portion of the funds appropriated for  
12 per student payments and transportation aid to the youth correctional center to support the  
13 provision of educational services by the youth correctional center.

14 **15.1-27-35. Average daily membership - Calculation.** Average daily membership is  
15 calculated by adding the total number of days that each student in a given classroom, school, or  
16 school district is in attendance during a school calendar and the total number of days that each  
17 student in a given classroom, school, or school district is absent during a school calendar, and  
18 then dividing the sum by one hundred eighty. For purposes of calculating average daily  
19 membership, all students are deemed to be in attendance on:

- 20 1. The three holidays listed in subdivisions b through j of subsection 1 of section  
21 15.1-06-02 and selected by the school board in consultation with district teachers;
- 22 2. The two days set aside for the attendance of teachers at the North Dakota  
23 education association instructional conference; and
- 24 3. The two full days, or portions thereof, during which parent-teacher conferences are  
25 held or which are deemed by the board of the district to be compensatory time for  
26 parent-teacher conferences held outside regular school hours.

27 **SECTION 12.** Chapter 15.1-28 of the North Dakota Century Code is created and  
28 enacted as follows:

29 **15.1-28-01. State tuition fund - Source.** The net proceeds of fines for the violation of  
30 state laws, payments for school land leases, and interest and income from the common schools  
31 trust fund must be paid into the state treasury and constitute the state tuition fund.

1           **15.1-28-02. Reports of county treasurer.** The county treasurer shall collect the net  
2 proceeds of all fines for violation of state laws and all payments for school land leases within  
3 the county and shall forward a detailed statement of the moneys collected to the state treasurer  
4 on or before the fifteenth of each month.

5           **15.1-28-03. State tuition fund - Apportionment - Payment.** On or before the third  
6 Monday in each February, April, August, October, and December, the office of management  
7 and budget shall certify to the superintendent of public instruction the amount of the state tuition  
8 fund. The superintendent shall apportion the fund among the school districts of the state in  
9 proportion to the number of school-age children residing in each district, as shown by the latest  
10 enumeration provided for by law and pay the amount apportioned to each school district. The  
11 superintendent shall make the payments required by this section at the same time as the per  
12 student payments required under chapter 15.1-27.

13           **SECTION 13.** Chapter 15.1-29 of the North Dakota Century Code is created and  
14 enacted as follows:

15           **15.1-29-01. Education of students in bordering states - Payment of tuition.**

- 16           1. Students may attend a school in a bordering state in accordance with section  
17           15.1-29-02 under the following circumstances:
- 18           a. A student who lives within forty miles [64.37 kilometers] of another state or in  
19           a county bordering on another state may, with the approval of the school  
20           board, attend a public school or institution in a bordering state.
  - 21           b. A student who has attended a school district in a bordering state since, and  
22           including, the 1990-91 school year must be permitted to continue attending  
23           school in the district in the bordering state.
  - 24           c. A student whose sibling attended an out-of-state school during or before the  
25           1990-91 school year must be permitted to attend school in the district the  
26           sibling attended in the bordering state.
- 27           2. If the school board of the district in which the student resides denies a request for a  
28           student's attendance in and payment of tuition to another state, the student's  
29           parent may appeal the decision to the three-member committee referenced in  
30           section 15.1-29-06.



- 1           a.    If the three-member committee determines that the student meets the terms  
2                   of subdivision b or c of subsection 1, the student may attend school in the  
3                   bordering state and the board of the student's school district of residence shall  
4                   pay the tuition.
- 5           b.    If the three-member committee determines the student falls within the terms of  
6                   subdivision a of subsection 1, then the three-member committee shall make  
7                   its decision using the criteria specified in section 15.1-29-06.
- 8           c.    If the student is a kindergarten student, the three-member committee shall  
9                   apply the same criteria as that specified for elementary students in section  
10                  15.1-29-06, except that subsection 2 of section 15.1-29-06 does not apply to  
11                  an appeal for out-of-state attendance and payment of tuition. Notwithstanding  
12                  the provisions of this section, if a student's school district of residence does  
13                  not provide for the education of kindergarten students, the district may not pay  
14                  tuition for a kindergarten student to attend school in a bordering state.
- 15          d.    Any decision by the three-member committee regarding the payment of tuition  
16                  for high school, elementary, or kindergarten students may be appealed by the  
17                  school board or by the student's parent to the state board of public school  
18                  education. A decision by the state board is final.
- 19          3.    a.    The superintendent of public instruction shall forward all per student and  
20                  transportation aid payments for a student attending an out-of-state school to  
21                  the student's school district of residence.
- 22            b.    The student's district of residence may reduce any tuition payment it must  
23                  make to an out-of-state school by an amount commensurate with the tuition  
24                  costs the district would be entitled to receive as compensation for a student  
25                  from the out-of-state district enrolled in its school.
- 26            c.    Transportation payments for a student attending school in a bordering state  
27                  must be determined as provided in section 15.1-27-27.
- 28          4.    Nothing in this section requires that a school district of residence provide student  
29                  transportation or payments in lieu of transportation for students attending  
30                  out-of-state schools.

31           **15.1-29-02. Education of students in bordering states - Reciprocal contract.**

- 1           1.    The superintendent of public instruction shall pursue a reciprocal contract with the  
2                    education agency of each bordering state. The contract must address the cost of  
3                    educating students in the public schools of the bordering state.
- 4           2.    A school district may comply with the terms of the superintendent's reciprocal  
5                    contract or, upon providing notice to the superintendent of public instruction, may  
6                    contract with a school district in a bordering state for the education of students. A  
7                    contract between school districts supersedes the terms of the superintendent's  
8                    reciprocal contract. A contract between school districts must provide for the  
9                    payment of tuition at an agreed-upon amount. The amount of tuition payable per  
10                   student may not exceed the amount set by the superintendent's reciprocal contract  
11                   nor may it be less than the per student payment plus tuition apportionment in the  
12                   North Dakota school district.
- 13          3.    For purposes of per student payments and tuition apportionment payments, a  
14                   student who attends school in a bordering state under a contract provided for by  
15                   this section is deemed to be in attendance in the student's school district of  
16                   residence. The student's school district of residence is liable to the school district  
17                   of the bordering state for payments as provided in the contract.
- 18          4.    If the education agency of a bordering state is not authorized to or refuses to enter  
19                   into a reciprocal contract with the superintendent of public instruction, a school  
20                   district in this state may enter into its own contract with a school district in a  
21                   bordering state for the education of students. A school district in this state may not  
22                   agree to accept students from a bordering state unless the tuition payable equals  
23                   or exceeds the per student payment plus the tuition apportionment payment that  
24                   the district would have received from this state for a student in the same grade if its  
25                   student had been attending school in the bordering state.

**15.1-29-03. Education of students in other districts - Payment of tuition.**

- 26           1.    After taking into account the best interests of all affected parties, the board of a  
27                   school district may elect to send its students to another school district. In this  
28                   instance, the board may pay tuition for the students. The board may arrange, and  
29                   when petitioned to do so by qualified electors of the district equal in number to at  
30                   least a majority of those who voted in the most recent annual school district  
31

1 election shall arrange, with other boards to send students to the other districts and  
2 to pay for their tuition and transportation.

3 2. If a district does not provide educational services to an entire grade level, the  
4 students in that grade level may attend a public school of their choice outside their  
5 district of residence without going through the procedures outlined in section  
6 15.1-29-05. The school district of residence shall pay tuition to the admitting  
7 district. For purposes of determining whether educational services are provided to  
8 an entire grade level, districts cooperating with each other in the joint provision of  
9 educational services under a plan approved by the superintendent of public  
10 instruction are considered to be a single district.

11 **15.1-29-04. Payment of tuition by sending districts - Interest on late payments.** If  
12 a school board approves the payment of tuition for a student attending school in another district  
13 or if a district is required to make tuition payments under the provisions of this chapter, the  
14 sending district shall pay at least fifty percent of the annual tuition charge to the admitting  
15 district on or before December thirty-first and any remaining amount on or before May  
16 thirty-first. If payment is not received by the admitting district within thirty days after the date on  
17 which payment is due, simple interest at the rate of six percent per annum accrues to any  
18 amount due.

19 **15.1-29-05. Payment of tuition - Petition by parent.** A student's parent may file a  
20 written petition with the board of the student's school district of residence for the payment of  
21 tuition in order that the student can attend another school district. Within sixty days after  
22 receiving the petition, the board shall meet with the student's parent and render a decision  
23 regarding the payment of tuition. If the board does not render a contrary decision within the  
24 sixty-day period, the petition is deemed approved. If the petition is approved, the board shall  
25 pay the tuition charges. If the petition is denied, the student's parent may file an appeal with the  
26 county superintendent of schools.

27 **15.1-29-06. Payment of tuition for grades one through twelve - Appeal -**  
28 **Withholding of state payments.**

29 1. a. Within fifteen days after receipt of an appeal filed under section 15.1-29-05,  
30 the county superintendent of schools shall convene a three-member  
31 committee consisting of the county superintendent, the state's attorney, and

1 one member appointed by the board of county commissioners for a term of  
2 three years. The committee shall consult with the boards of the affected  
3 districts and with the student's parent. The committee shall schedule a  
4 hearing, giving due notice to each affected board and to the student's parent.  
5 The committee shall conduct the hearing in a manner that allows all parties to  
6 present arguments and responses. The committee shall base its decision  
7 regarding the payment of tuition on the grade in which the student is enrolled.

8 b. If the student is or during the following school year will be enrolled in any  
9 grade from nine through twelve and the committee finds that the attendance  
10 of the student is necessitated by shorter distances, previous attendance in  
11 another high school, inadequacy of curriculum considering the student's  
12 educational needs, or extreme hardship for the student or the student's family,  
13 the committee shall approve the application and the payment of tuition by the  
14 student's school district of residence, thereby obligating the district of  
15 residence to pay the tuition. The committee's directive regarding the payment  
16 of tuition may be for any fixed number of school years, up to the completion of  
17 the student's high school education, unless open enrollment is an available  
18 option. The decision of the committee may be appealed to the state board of  
19 public school education. A decision by the state board is final.

20 c. If the student is or during the following school year will be enrolled in any  
21 grade from one through eight and the committee finds that the attendance of  
22 the student is necessitated by shorter distances or extreme hardship for the  
23 student or the student's family, the committee shall approve the application  
24 and the payment of tuition by the student's district of residence, thereby  
25 obligating the district of residence to pay the tuition. The committee's  
26 directive regarding the payment of tuition is limited to one school year. The  
27 student's parent may make subsequent applications for the payment of tuition.  
28 The decision of the committee is final and is not subject to appeal.

29 2. If a student's school district of residence consists of land situated in more than one  
30 county, the three-member committee established under subsection 1 must consist  
31 of the county superintendent of schools and the state's attorney from the county in

1           which the greatest portion of the school district's land is situated, and an individual  
2           appointed for a term of three years by the board of county commissioners  
3           representing the county in which the greatest portion of the school district's land is  
4           situated.

5           3. If the student's school district of residence does not comply with the decision  
6           requiring that tuition charges be paid, the board of the admitting district shall notify  
7           the superintendent of public instruction. Upon verifying that tuition payments are  
8           due the admitting district and are unpaid, the superintendent of public instruction  
9           shall withhold all state payments to the student's school district of residence until  
10          any tuition due has been fully paid.

11          4. A school district of residence may provide transportation to a student for whom  
12          tuition is paid under this section. If a school district of residence does not provide  
13          transportation to the student, it may be provided by the admitting district and the  
14          admitting district is then entitled to state payments for the transportation of the  
15          student.

16          **15.1-29-07. Payment of tuition by parent - Content of tuition contract.**

17          1. If the board of a student's school district of residence refuses to pay the tuition for  
18          the student to attend school in another district and if the committee established  
19          under section 15.1-29-06 denies the petition on appeal, the student's parent may  
20          pay the tuition.

21          2. If the parent chooses to pay the tuition, the parent shall:  
22                a. Submit at least fifty percent of the total amount due on the day of enrollment;  
23                and  
24                b. Provide the board of the admitting district with a written contract agreeing to  
25                pay any remaining balance on or before December thirty-first.

26          **15.1-29-08. Payment of tuition - Kindergarten student.** If the student is or during the  
27          following school year will be enrolled in kindergarten, the board of the student's school district of  
28          residence may pay tuition to the receiving district. The board's decision with respect to a  
29          kindergarten student is not appealable. If the board of the student's district of residence does  
30          not pay the tuition to the admitting district, the student's parent may pay the tuition to the  
31          admitting district under the provisions of section 15.1-29-11.

1           **15.1-29-09. Payment of tuition by federal government.** An admitting district may  
2 accept payments under title 1 of Public Law No. 81-874 [64 Stat. 1100; 20 U.S.C. 236 et seq.]  
3 as tuition for a nonresident student if:

- 4           1. The student's parent is employed on an installation owned by the federal  
5           government;
- 6           2. The student's parent resides on an installation owned by the federal government;  
7           and
- 8           3. The boards of the student's school district of residence and the admitting district  
9           agree to accept the payments in lieu of other tuition for the nonresident student.

10           **15.1-29-10. Tuition contracts - Agreement with federal officials.** A school board  
11 may contract with federal officials for the education of students in a federal school.

12           **15.1-29-11. Admission of students - Conditions.** The board of a school district shall  
13 admit students from other districts to its schools if:

- 14           1. The admission does not create overcrowding; and
- 15           2. a. The board of the sending district has entered into a contract with the board of  
16           the admitting district regarding the students' attendance;  
17           b. Tuition will be paid by the parents of the students from the sending district; or  
18           c. The grade level required by the students is not offered by the sending district.

19           **15.1-29-12. Tuition payments - Determination.**

- 20           1. Except as provided in section 15.1-29-13, a school district sending a student to  
21           another district for purposes of education shall pay the full cost of education  
22           incurred by the admitting district.
- 23           2. a. The admitting district shall determine the cost of education per student for its  
24           kindergarten, elementary, and high school students on the basis of its  
25           average daily membership and those expenditures permitted in determining  
26           the cost of education per student in section 15.1-27-03.
- 27           b. To the cost of education per student, the admitting district shall add the state  
28           average capital outlay per student. The state average capital outlay per  
29           student is determined by dividing the total of all school districts' annual  
30           expenditures for sinking and interest funds, tax receipts to the building funds,

- 1                   and general fund expenditures for capital outlay by the average daily  
2                   membership of the state.
- 3                   c.   The admitting district shall subtract the following from the amount arrived at  
4                   under subdivision b:
- 5                   (1)   The weighted per student payment received by the admitting district,  
6                   less the average amount per North Dakota resident student enrolled in  
7                   the school district realized from the deductions applied under section  
8                   15.1-27-06; and
- 9                   (2)   Any credit for taxes paid to the admitting district by the student's parent.
- 10                  d.   The amount remaining is the full cost of education incurred by the admitting  
11                  district and the tuition amount payable for the individual student.
- 12                  3.   If the student's school district of residence and the student's parent are both paying  
13                  tuition, the credit allowed under subdivision c of subsection 2 for taxes paid to the  
14                  admitting district by the student's parent must be proportionately credited to the  
15                  student's district of residence and the student's parent.
- 16                  4.   This chapter does not affect the right of a school board to charge and collect tuition  
17                  from students who are not residents of this state, in accordance with section  
18                  15.1-29-02.

19                  **15.1-29-13. Tuition payments - Nonresident students.**

- 20                  1.   a.   Except as provided in this subsection, the board of a school district that  
21                  admits a nonresident student shall charge and collect tuition for the student.  
22                  Either the student's district of residence shall pay the tuition to the admitting  
23                  district in accordance with section 15.1-29-12 or the student's parent shall pay  
24                  the tuition to the admitting district in accordance with section 15.1-29-07.
- 25                  b.   A board may charge tuition for nonresident students enrolled in an approved  
26                  alternative education program.
- 27                  c.   Except as otherwise provided, if a school district fails to charge and collect  
28                  tuition for a nonresident student, the districts shall forfeit any per student  
29                  payment and transportation aid otherwise payable for the nonresident student.
- 30                  2.   a.   The board of a school district may admit a nonresident student from another  
31                  district in this state offering the same grade level as that in which the student

- 1 is enrolled without a charge and collection of tuition if the sending and  
2 admitting districts have entered into a written contract regarding the student's  
3 admission.
- 4 b. For purposes of determining whether the same grade level is offered, two or  
5 more school districts cooperating with each other for the joint provision of  
6 educational services under a plan approved by the superintendent of public  
7 instruction must be considered to be a single district.
- 8 c. The contract must specify whether transportation is to be provided and, if so,  
9 by which district. If a school district of residence does not provide  
10 transportation to the student, it may be provided by the admitting district and  
11 the admitting district is then entitled to state payments for the transportation of  
12 the student.
- 13 d. A contract is not necessary if the nonresident student is enrolled in an  
14 approved alternative education program for which no tuition is charged.
- 15 e. A school district may admit a nonresident student described in section  
16 15.1-31-07 from another school district in this state without a charge and  
17 collection of tuition and without a written agreement.
- 18 3. A school district may not charge or collect from a nonresident student, the  
19 student's parent, or the student's district of residence any fees or charges not  
20 otherwise assessed to all resident students.

21 **15.1-29-14. Student placement for noneducational purposes - Residency**  
22 **determination - Payment of tuition.**

- 23 1. For purposes of applying this chapter, a student's school district of residence is the  
24 district in which the student resides:
- 25 a. At the time that a state court, tribal court, juvenile supervisor, or the division of  
26 juvenile services issues an order requiring the student to stay for a prescribed  
27 period at a state-licensed foster home or at a state-licensed child care home  
28 or facility;
- 29 b. At the time a county or state social service agency places the student, with  
30 the consent of the student's parent or legal guardian, at a state-licensed foster  
31 home or at a state-licensed child care home or facility;



- 1           c. At the time the student is initially placed in a state-operated institution, even if  
2           the student is later placed at a state-licensed foster home or at a  
3           state-licensed child care home or facility; or  
4           d. At the time the student is voluntarily admitted to a state-operated institution or  
5           to a state-licensed child care home or facility.
- 6           2. The student's school district of residence is obligated to pay:
- 7           a. All charges for tuition upon claim of the admitting district; and  
8           b. All charges for tutoring services upon claim of an admitting facility, provided  
9           that the tutoring services are delivered by an individual who is licensed to  
10          teach by the education standards and practices board or approved to teach by  
11          the education standards and practices board.
- 12          3. a. If, after a student placement is made as provided for under subsection 1, the  
13          student's custodial parent establishes residency in another school district in  
14          this state, the school district in which the custodial parent has established  
15          residency becomes the student's school district of residence for purposes of  
16          paying tuition and tutoring charges under subsection 2.
- 17          b. The state shall pay the tuition and tutoring charges under subsection 2 from  
18          funds appropriated by the legislative assembly for per student and  
19          transportation aid:
- 20               (1) If, after a student placement is made as provided for under  
21               subsection 1, the student's custodial parent establishes residency  
22               outside this state; or  
23               (2) If a court orders a termination of parental rights with respect to the  
24               student's parents.
- 25          4. If the student is voluntarily admitted to a state-licensed child care home or facility,  
26          or to a state-operated institution, the student's parent or, if one has been  
27          appointed, the student's legal guardian may appeal a determination under section  
28          15.1-29-05 regarding the payment of tuition by filing a petition with the county  
29          superintendent of schools. Within fifteen days of receiving the petition, the  
30          three-member committee established under section 15.1-29-06 shall consult with  
31          the boards of the affected school districts and with the student's parent or legal

- 1 guardian and render a decision regarding responsibility for the payment of tuition  
2 charges.
- 3 5. If the student's district of residence does not pay the required tuition, the admitting  
4 district or facility shall notify the superintendent of public instruction. Upon  
5 verification that tuition payments are due and unpaid, the superintendent shall  
6 withhold an amount equal to the unpaid tuition from per student payments and  
7 transportation aid otherwise payable to the student's school district of residence  
8 until the tuition due has been fully paid.
- 9 6. An amount equal to the state average per student elementary or high school cost,  
10 depending on the student's grade of enrollment, is payable to the admitting district  
11 or facility as part of the cost of educating the student for the school year. The  
12 payment may not exceed the actual per student cost incurred by the admitting  
13 district or facility. The remainder of the actual cost of educating the student not  
14 covered by other payments or credits must be paid by the state, within the limits of  
15 legislative appropriations, from funds appropriated for special education in the case  
16 of a student with disabilities or from funds appropriated for per student payments  
17 and transportation aid in all other cases.
- 18 7. If a student with disabilities placed in accordance with this section reaches age  
19 eighteen and continues to receive special education and related services, the  
20 student's school district of residence is deemed to be the same as that of the  
21 student's custodial parent until the special education services are concluded. If the  
22 student's custodial parent establishes residency outside this state, or if a court  
23 orders a termination of parental rights with respect to the student's parents, the  
24 state shall pay the tuition and tutoring charges under subsection 2 from funds  
25 appropriated by the legislative assembly for per student and transportation aid.
- 26 8. a. The placing agency shall provide written notice regarding an initial placement  
27 and all subsequent placements of a student, by registered mail, to the  
28 superintendent of the student's school district of residence and to the  
29 superintendent of the admitting district:
- 30 (1) Within five working days after a placement is made under court order;  
31 (2) Within five working days after an emergency placement is made; or

- 1                   (3) At least ten working days prior to any other placement.
- 2                   b. The written notice must include any information requested by the
- 3                   superintendent of public instruction for purposes of determining payment
- 4                   responsibility.
- 5                   c. The placing agency shall afford the student's school district of residence
- 6                   reasonable opportunity to participate in permanency planning for the student.
- 7                   9. Notwithstanding this section, educational services provided to a student by the
- 8                   youth correctional center are not subject to the payment of tuition by either the
- 9                   student's school district of residence or the superintendent of public instruction.
- 10                  10. For purposes of this section, "custodial parent" means the parent who has been
- 11                  awarded sole legal and physical custody of the student in a legal proceeding or, if
- 12                  there is currently no operative custody order, the parent with whom the student
- 13                  resides. If the student resides with both parents, then both are custodial parents.

14                  **15.1-29-15. Levy for tuition payments.** If the board of a school district approves

15                  tuition payments for students in grades seven through twelve or if the board is required to make

16                  tuition payments under this chapter, the board may levy an amount sufficient to meet such

17                  payments, pursuant to subdivision c of subsection 1 of section 57-15-14.2.

18                  **SECTION 14.** Chapter 15.1-30 of the North Dakota Century Code is created and

19                  enacted as follows:

20                  **15.1-30-01. Transportation or meals and lodging - Options of school board.**

- 21                  1. The board of a school district may:
- 22                    a. Provide for the transportation of a student to school; or
- 23                    b. If acceptable to the student's parent, reimburse the parent for expenses
- 24                    incurred in providing meals and lodging to the student outside the student's
- 25                    home, provided that the reimbursement may not exceed the amount permitted
- 26                    under subsection 4 of section 15.1-27-27.
- 27                  2. A parent receiving payments under section 15.1-30-02 is not eligible to receive
- 28                  payments under this section.
- 29                  3. If the board elects to provide for the transportation of students by public transit, the
- 30                  board shall establish eligibility criteria based on a minimum distance between a

1 student's residence and the school. Except as otherwise provided by law, the  
2 board shall apply the criteria equally to all students in the district.

3 4. Benefits under this section are available even if a student is transported to another  
4 school district in or outside this state, provided the student's attendance meets all  
5 other conditions established by law.

6 **15.1-30-02. Transportation payments - Board option.**

7 1. The board of a school district in the state may pay to the parent of each student  
8 who resides more than two miles [3.22 kilometers] from the public school which the  
9 student attends a reasonable sum per day for each day the student attends the  
10 school, provided:

- 11 a. The student is transported to school by an adult member of the student's  
12 family;
- 13 b. The student's transportation is provided in a vehicle furnished by the student's  
14 parent;
- 15 c. The student's transportation is paid for by the student's parent; or  
16 d. The cost of providing meals and lodging for the student at a location other  
17 than the student's residence is assumed by the student's parent.

18 2. The board shall calculate the payment provided for in this section according to the  
19 distance between the front door of the student's residence and the front door of the  
20 school attended by the student, using the most direct public route.

21 **15.1-30-03. Transportation payments - Written request - Waiver.** A parent entitled  
22 to any payment authorized by a school board under this chapter shall submit to the school  
23 district a written request for payment before June thirtieth of each school year or the payment is  
24 deemed waived. Any payment not made within one year of the date on which it is requested is  
25 deemed to have been refused and the claim is deemed to have expired.

26 **15.1-30-04. Provision of meals and lodging for high school students - Payment**  
27 **permitted - Levy.** Instead of providing transportation so that an eligible high school student  
28 residing in the district can attend school in another district, a school board may pay a  
29 reasonable allowance to the student's parent for costs incurred in the provision of meals and  
30 lodging for the student at a location other than the student's residence. A school district that  
31 furnishes either transportation or an allowance for the provision of meals and lodging for a

1 student under this section may levy a tax pursuant to subdivision a of subsection 1 of section  
2 57-15-14.2 for this purpose.

3 **15.1-30-05. Schoolbus transportation services - Optional fee.** The board of a  
4 school district that has not been reorganized may charge a fee for the provision of schoolbus  
5 transportation service to students. If the service began before July 1, 1981, the total fees  
6 charged may not exceed an amount equal to the difference between the state transportation  
7 payment and the lesser of the state average cost for transportation or the district's cost during  
8 the preceding school year. If the service started on or after July 1, 1981, the total fees charged  
9 may not exceed an amount equal to the difference between the state transportation payment  
10 and the school district's cost of transportation during the preceding school year. A district that  
11 has not previously provided transportation to students shall base its fees on estimated costs  
12 during the first year transportation is provided.

13 **15.1-30-06. Transportation - Bids, contracts, bonds.**

- 14 1. Before the beginning of each school year, the board of a school district that  
15 provides transportation shall contract for the provision of transportation services  
16 during the school year. Except as provided in section 15.1-30-11, the board shall  
17 provide notice of its intent to contract by publishing the time and place for  
18 submission of sealed bids in the official newspaper of the school district at least ten  
19 days prior to the required date of submission. The notice must:
- 20 a. Include the route to be covered by each contract;
  - 21 b. Provide that the board reserves the right to reject any and all bids;
  - 22 c. Provide that each successful bidder must submit in a separate envelope a  
23 bond in an amount set by the board, provided that the amount of the bond  
24 must be at least five hundred dollars;
  - 25 d. Provide that the bond must be conditioned for the faithful performance of the  
26 duties set forth in the contract; and
  - 27 e. Provide that any bids submitted name the individual who will operate the  
28 vehicle and describe the vehicle.
- 29 2. If the transportation vehicle is privately owned, the duration of the contract may not  
30 exceed seven years.

1           **15.1-30-07. Transportation contract - Standard form.** The superintendent of public  
2 instruction shall prepare a standard transportation contract form and shall provide copies, upon  
3 request, to school districts.

4           **15.1-30-08. Transportation contract - Provisions.** A transportation contract must:

- 5           1. Provide that no vehicle other than that described in the contract may be used to  
6 transport students, unless a change is authorized in writing by the board of the  
7 school district.
- 8           2. Provide that only the individual named in the contract may operate a vehicle used  
9 to transport students, unless a change is authorized in writing by the board.
- 10          3. Include the transportation routes that were established by the board and which are  
11 to be covered by the transportation provider.
- 12          4. Set compensation for the provision of transportation.
- 13          5. Describe the process by which an equitable adjustment of compensation will be  
14 determined and paid if a change in the established transportation routes becomes  
15 necessary.

16           **15.1-30-09. Transportation contract - Waiver of provisions.** In the case of an  
17 emergency or other unforeseen event, the school board president may waive transportation  
18 contract provisions requiring that only vehicles described in the contract be used and that the  
19 vehicles be operated only by individuals named in the contract. The waiver is valid only until  
20 the next regular or special meeting of the board.

21           **15.1-30-10. Transportation contract - Assignment.** A transportation contract is  
22 assignable only upon written authorization by the school board.

23           **15.1-30-11. Transportation contract - Direct negotiation.**

- 24           1. Notwithstanding sections 15.1-30-06 and 15.1-30-12, a contract for the  
25 transportation of students, originally bid by and let to a contractor, may be  
26 renewed:
  - 27           a. Through direct negotiation between the board of a school district and the  
28 contractor; or
  - 29           b. Upon sealed bids.
- 30           2. If a contract is to be renewed through direct negotiation, the school board shall  
31 publish notice in the official newspaper of the district, at least thirty days before the

- 1 date of renewal, and shall make a good-faith effort to obtain at least two written  
2 quotations for the contract. The board shall maintain all quotations received on file  
3 for at least one year after their receipt. The quotations are public information.
- 4 3. If any written quotations are received, the board may directly negotiate a contract,  
5 provided:
- 6 a. The board shall conduct a public meeting regarding the contract;  
7 b. The board provides at least seven days' notice of the public meeting  
8 regarding the contract by publication in the official newspaper of the district;  
9 and  
10 c. The public is given an opportunity to appear and comment at the public  
11 meeting.
- 12 4. All terms of the contract must be negotiated and agreed to in the public meeting.
- 13 5. If a contract is to be made upon the receipt of sealed bids, the board shall follow  
14 the procedure set forth in section 15.1-30-06 for advertising and awarding the bids.

15 **15.1-30-12. Contract for transportation - Conditions.**

- 16 1. The board of a school district shall let the contract, except as otherwise provided in  
17 section 15.1-30-11, to the lowest responsible bidder who:
- 18 a. Furnishes a bond approved by the board, as provided for in section  
19 15.1-30-06;
- 20 b. Agrees to use a vehicle which, in the opinion of the board, meets the  
21 standards imposed by the superintendent of public instruction under sections  
22 39-21-27 and 39-21-27.1 and which is safe, comfortable, and suitable for the  
23 purpose; and  
24 c. Identifies individuals who, in the opinion of the board, are competent and  
25 responsible to serve as drivers.
- 26 2. The board may not enter a contract for transportation with an individual member of  
27 the board.
- 28 3. An individual member of the board may serve as the driver of a vehicle identified  
29 for use in the transportation contract.

30 **15.1-30-13. Transportation of students - Control and discipline.** The driver of a  
31 vehicle used to transport students under a contract as provided in this chapter is under the

1 supervision and direction of the school board, the school district superintendent, the school  
2 principal, and the teachers of the school while the driver is on duty. The disciplinary authority of  
3 the school exists while a student is being transported, by or on behalf of the student's school,  
4 and the driver of the vehicle is charged with exercising control and discipline during the  
5 transportation.

6 **15.1-30-14. Schoolbus route - Extension into bordering state.** The board of a  
7 school district may extend its bus route into a bordering state for the purpose of transporting  
8 students from the bordering state into this state, provided that the superintendent of public  
9 instruction has entered a reciprocal contract with the bordering state under section 15.1-29-02  
10 or that the board has entered a contract with a school district in the bordering state under  
11 section 15.1-29-02.

12 **15.1-30-15. Transportation services to nonpublic students - Joint provision of**  
13 **transportation services.**

14 1. If the board of a school district provides transportation services to its students, the  
15 board may provide transportation services to students attending nonpublic schools,  
16 provided:

17 a. The nonpublic school students are transported only along the bus route  
18 established for the public school students;

19 b. The nonpublic school students are transported only on the days and at the  
20 times that the public school students are transported; and

21 c. The legal passenger capacity of each bus is not exceeded by the  
22 transportation of nonpublic school students.

23 2. a. The board of a school district that provides transportation to its students may  
24 contract with other local, state, or federal government entities for the joint  
25 provision and integration of transportation services to the public.

26 b. A contract under this section must provide for the observation of all safety  
27 requirements otherwise imposed by law on schoolbuses, on school vehicles,  
28 and on schoolbus drivers when students are being transported.

29 c. Transportation services to students provided pursuant to this subsection  
30 qualify for state transportation aid under chapter 15.1-27. However, no  
31 payments may be made from state funds for any costs incurred as a result of



1                   a deviation from established schoolbus routes necessitated by a contract  
2                   pursuant to this subsection.

3                   **SECTION 15.** Chapter 15.1-31 of the North Dakota Century Code is created and  
4 enacted as follows:

5                   **15.1-31-01. Open enrollment - Procedure.**

- 6                   1. By February first of the school year preceding the year of enrollment, a parent who  
7                   wishes to enroll a student in a North Dakota school district other than the student's  
8                   district of residence shall file an application for approval with the board of the  
9                   student's district of residence. The superintendent of public instruction shall make  
10                  the application forms available in each school district.
- 11                  2. By March first of the school year preceding the year of enrollment, the school  
12                  board of the student's district of residence shall act on the application, notify the  
13                  parent of the board's decision within five days, and if the application is approved,  
14                  immediately transmit the application to the admitting district.
- 15                  3. By April first of the school year preceding the year of enrollment, the board of the  
16                  admitting district shall approve or deny the application. The board of the admitting  
17                  district shall notify the board of the district of residence and the student's parent of  
18                  its decision within five days.
- 19                  4. Notice of intent to enroll in the admitting district obligates the student to attend the  
20                  admitting district during the following school year unless the school boards of the  
21                  resident and the admitting districts agree in writing to allow the student to transfer  
22                  back to the resident district or the student's parent relocates to another district.
- 23                  5. All applications must be reviewed in the order they are received.
- 24                  6. A student whose school district of residence does not offer the grade level in which  
25                  the student requires enrollment may not participate in open enrollment. For  
26                  purposes of determining whether the grade level in which the student requires  
27                  enrollment is offered, the several school districts cooperating with each other for  
28                  the joint provision of education services under a plan approved by the  
29                  superintendent of public instruction must be considered to be a single district.

1           7. A child placed for purposes other than education in a group or residential care  
2           facility or in a residential treatment center is not eligible for open enrollment under  
3           this section.

4           8. The board of a school district of residence and the board of an admitting district  
5           shall waive the application, consideration, and approval dates in this section for  
6           any student who, together with the student's parent, moves from the student's  
7           school district of residence to another school district and who wishes to enroll in a  
8           school district other than the district to which the student moved.

9           **15.1-31-02. Open enrollment - Grounds for denial - Exception.** Except as provided  
10          in section 15.1-31-04, the board of a student's school district of residence may deny an  
11          application under section 15.1-31-01 only if the application will result in a reduction of the  
12          number of students enrolled in the district by more than twenty percent of the average daily  
13          membership the previous school year. However, if denying an application would result in the  
14          enrollment of children from the same nuclear family in different school districts, the school  
15          board of the district of residence may not deny the application.

16          **15.1-31-03. Open enrollment - Per student aid - Tuition apportionment.**

17          1. Once a student is enrolled in an admitting district, the student must remain enrolled  
18          in the admitting district until:

- 19           a. The student graduates;  
20           b. The student relocates to another district;  
21           c. The student's parent applies for enrollment in another school district; or  
22           d. The student's parent notifies the student's school district of residence that the  
23           student will attend school in the school district of residence the following year.

24          2. Payment for per student aid must be made in accordance with chapter 15.1-27.

25          3. For purposes of tuition apportionment payments, a student whose application is  
26          approved under this section is considered a resident of the admitting district.

27          4. Except as specifically provided in this chapter, chapter 15.1-29 does not apply to  
28          students involved in open enrollment.

29          **15.1-31-04. Open enrollment - Students with disabilities - Additional costs.** If an  
30          application under this chapter is approved for a student with a disability, the board of the  
31          student's school district of residence shall pay to the admitting district the costs incurred by the

1 admitting district in providing special education and related services to the student up to a  
2 maximum each school year of two and one-half times the state average per student elementary  
3 or high school cost, depending on the student's enrollment level, plus twenty percent of all  
4 remaining costs. The superintendent of public instruction shall reimburse the admitting district  
5 eighty percent of the remainder of the cost of educating the student with disabilities within the  
6 limits of legislative appropriations for that purpose.

7 **15.1-31-05. Open enrollment - Transportation.** A school district of residence may  
8 provide transportation to a student participating in open enrollment. If a district of residence  
9 does not provide transportation to a student participating in open enrollment, transportation may  
10 be provided by the admitting district, and the admitting district is then entitled to state payments  
11 for the transportation of that student.

12 **15.1-31-06. Open enrollment - School boards - Standards.**

13 1. The board of each school district shall set standards for the acceptance and denial  
14 of applications for admittance under open enrollment as provided in section  
15 15.1-31-01. The standards may address the capacity of a program, class, grade  
16 level, or school building. The standards may not address previous academic  
17 achievement, participation in extracurricular activities, disabilities, English language  
18 proficiency, or previous disciplinary proceedings.

19 2. A board may also determine that applications for admittance under open  
20 enrollment, in accordance with this chapter, will not be considered.

21 3. A school district participating in an open enrollment program may not give or offer  
22 to give a student remuneration, or directly or indirectly exert influence on the  
23 student or the student's family, in order to encourage participation in the open  
24 enrollment program for the purpose of having the student participate in varsity  
25 athletic activities.

26 **15.1-31-07. Students not subject to this chapter.** If a student, as a result of a school  
27 district dissolution, resides in a district other than the one the student chooses to attend at the  
28 time of dissolution, the student is not subject to the provisions of this chapter and may attend  
29 school in the chosen school district. The student may not be considered a student in average  
30 daily membership in the student's school district of residence for purposes of section  
31 15.1-31-02.

1           **SECTION 16.** Chapter 15.1-32 of the North Dakota Century Code is created and  
2 enacted as follows:

3           **15.1-32-01. Definitions.** As used in this chapter:

- 4           1. "Related services" means transportation and developmental and corrective or  
5           supportive services required to assist a student with disabilities to benefit from  
6           special education.
- 7           2. "Special education" means instruction designed to meet the needs of a student  
8           with disabilities, transportation, and corrective and supporting services required to  
9           assist a student with disabilities in taking advantage of, or responding to,  
10          educational programs and opportunities.
- 11          3. "Student who is gifted" means an individual who is identified by qualified  
12          professionals as being capable of high performance and who needs educational  
13          programs and services beyond those normally provided in a regular education  
14          program.
- 15          4. "Student with disabilities" means an individual who is at least three years of age  
16          but who has not reached the age of twenty-one before September first of the year  
17          in which the individual turns twenty-one and who because of mental, physical,  
18          emotional, or learning characteristics requires regular or special education and  
19          related services designed to meet the individual's educational needs. The term  
20          includes an individual who is mentally retarded, hearing impaired, deaf, deaf-blind,  
21          speech or language impaired, visually impaired, emotionally disturbed,  
22          orthopedically impaired, or autistic, and an individual who has a specific learning  
23          disability, a traumatic brain injury, or other health impairment.

24          **15.1-32-02. Coordination of special education policies and programs.** The  
25 superintendent of public instruction shall establish, within the provisions of this chapter, general  
26 state policy regarding special education and shall endeavor to ensure a cooperative special  
27 education program coordinating all available services. The superintendent of public instruction  
28 shall cooperate with private agencies and solicit their advice and cooperation in the  
29 establishment of policy and in the coordination and development of special education programs.

30          **15.1-32-03. Interagency cooperative agreements - Development and**  
31 **implementation.** The superintendent of public instruction shall develop and implement

1 interagency agreements with the department of corrections and rehabilitation, the department of  
2 human services, the state department of health, and other public and private entities to  
3 maximize the state resources available for fulfilling the educationally related service  
4 requirements of Public Law No. 94-142 [89 Stat. 773] and section 504 of the Rehabilitation Act  
5 of 1973, as amended.

6 **15.1-32-04. Institutions not supervised by public school authorities - Rules.** The  
7 superintendent of public instruction shall adopt rules governing special education programs in  
8 institutions that are supported in whole or in part by the state, but which are not supervised by  
9 public school authorities. The rules must be similar to those established for the delivery of  
10 special education in a public school.

11 **15.1-32-05. Special education - Cooperation among agencies.** The superintendent  
12 of public instruction, the state department of health, and the department of human services shall  
13 cooperate in planning and coordinating early intervention programs for individuals under the  
14 age of three.

15 **15.1-32-06. Director of special education.** The superintendent of public instruction  
16 shall employ a qualified director of special education and any necessary assistants.

17 **15.1-32-07. Director of special education - Powers and duties.** The director of  
18 special education shall assist school districts with the development and administration of  
19 special education programs.

20 **15.1-32-08. School districts - Provision of special education.** Each school district  
21 shall provide special education, singly or jointly with other districts, in accordance with this  
22 chapter. Each school district and entity providing special education shall cooperate with the  
23 director of special education and with the institutions of this state in the provision of special  
24 education.

25 **15.1-32-09. Superintendent of public instruction - Rules.** The superintendent of  
26 public instruction shall adopt rules for the provision of special education to students with  
27 disabilities and for the administration of this chapter.

28 **15.1-32-10. Gifted students.** A school district may provide special education to  
29 students who are gifted.

1           **15.1-32-11. School district records - Students with disabilities.** Each school district  
2 shall make and keep current a record of all students with disabilities who are residents of the  
3 district.

4           **15.1-32-12. Multidisciplinary teams - Individualized education programs -**  
5 **Services plans.** If a school district has evidence of a student's disability, the school district  
6 shall convene a multidisciplinary team consisting of educational professionals, medical  
7 professionals, and the student's parent to share assessment information related to the student's  
8 suspected disability. If necessary, the team shall develop an individualized education program  
9 or services plan and make recommendations for the delivery of special education and related  
10 services to the student.

11           **15.1-32-13. Related services - Insurance options - School district responsibility.**  
12 Each school district shall require that all family insurance options be exhausted in paying the  
13 costs of determining a student's medically related disability and in paying for the provision of  
14 related services to the student, provided there is no financial loss to the student or the student's  
15 parent. The school district is responsible for all costs not covered by the family's insurance.

16           **15.1-32-14. Special education per student payments.**

17           1. A student with disabilities who receives special education services is deemed to be  
18 enrolled in the student's school district of residence for purposes of calculating per  
19 student payments.

20           2. An additional prorated per student payment may be made if a student with  
21 disabilities attends a special education summer program approved by the  
22 superintendent of public instruction, provided the student's individualized education  
23 program or services plan requires that the student attend a special education  
24 summer program.

25           3. If a student who is enrolled in a nonpublic school receives special education  
26 services in a public school, the superintendent of public instruction shall forward a  
27 proportionate per student payment to the school district in which the student  
28 receives the services.

29           4. a. If in the opinion of an individualized education program team or a services  
30 plan team a student is unable to attend a public school in the special  
31 education unit to which the student's school district of residence belongs, the

- 1 student's school district of residence shall contract with another public school  
2 that:
- 3 (1) Does not belong to the same special education unit;
  - 4 (2) Is located in this state;
  - 5 (3) Is willing to admit the student; and
  - 6 (4) Is able to provide appropriate services to the student.
- 7 b. The superintendent of public instruction shall approve in advance the terms of  
8 the contract and the services to be provided by the admitting school.
- 9 c. The contract must provide that the student's school district of residence  
10 agrees to pay to the district in which the admitting school is located, as part of  
11 the cost of educating the student for the school year, an amount equal to two  
12 and one-half times the state average per student elementary or high school  
13 cost, depending upon the student's level of enrollment, plus twenty percent of  
14 all remaining costs. The amount paid may not exceed the actual per student  
15 cost incurred by the admitting school.
- 16 d. The liability of the student's school district of residence must be reduced  
17 proportionately if the student attends the admitting school for less than an  
18 entire school year.
- 19 e. Upon being notified by the admitting district that tuition payments provided for  
20 by this section are due and unpaid, the superintendent of public instruction,  
21 after verification, shall withhold all state aid payments to which the student's  
22 school district of residence is entitled until the tuition due has been paid.
- 23 f. The superintendent of public instruction shall provide to the school district,  
24 within the limits of legislative appropriations, an amount equal to eighty  
25 percent of the remainder of the actual cost of educating the student with  
26 disabilities not covered by other payments or credits.

27 **15.1-32-15. Student with disabilities - Attendance at private institution or**  
28 **out-of-state public school.**

- 29 1. If in the opinion of an individualized education program team or an education  
30 services team a student is unable to attend a public school in the student's school  
31 district of residence because of a physical disability, a mental disability, or a

- 1 learning disability, and if no public school in the state will accept the student and  
2 provide the necessary services, the student's school district of residence shall  
3 contract with:
- 4 a. A private, accredited, nonsectarian, nonprofit institution that is located within  
5 or outside of this state and which has the proper facilities for the education of  
6 the student; or
  - 7 b. A public school located outside of this state that has proper facilities for the  
8 education of the student.
- 9 2. The superintendent of public instruction shall approve in advance the terms of the  
10 contract and the services to be provided by the admitting institution or school.
- 11 3. The contract must provide that the student's school district of residence shall pay  
12 to the institution or school, as part of the cost of educating the student, an amount  
13 for the school year equal to two and one-half times the state average per student  
14 elementary or high school cost, depending upon the student's level of enrollment,  
15 plus twenty percent of all remaining costs.
- 16 4. The amount paid may not exceed the actual per student cost incurred by the  
17 institution or school.
- 18 5. The superintendent of public instruction shall provide to the student's school district  
19 of residence, within the limits of legislative appropriations, an amount equal to  
20 eighty percent of the remainder of the actual cost of educating the student with  
21 disabilities not covered by other payments or credits.
- 22 6. The school district of residence is entitled to the per student payment for a student  
23 who receives services under this section.

24 **15.1-32-16. Transportation services - State reimbursement.** If a student's  
25 individualized education program or services plan requires the provision of transportation  
26 services, the student's school district of residence shall provide the services by any reasonably  
27 prudent means, including a regularly scheduled schoolbus, public transit, commercial  
28 transportation, chartered or other contracted transportation, and transportation provided by the  
29 student's parent or other responsible party. The school district is entitled to state  
30 reimbursement for the provision of transportation services to the student. If transportation is



1 provided by a student's parent, the superintendent may reimburse the school district only for  
2 mileage costs.

3 **15.1-32-17. Extended educational program.** A student with disabilities is entitled to  
4 an educational program that extends beyond the normal school calendar if the student's  
5 individualized education program team or services team determines that regression would be  
6 caused by an interruption in the student's educational program and that the student's limited  
7 recoupment capacity makes it impossible or unlikely that the student will attain the level of  
8 self-sufficiency and independence from caretakers which the student would otherwise be  
9 expected to reach.

10 **15.1-32-18. Cost - Liability of school district for special education.** If the cost of  
11 providing special education and related services to a student with disabilities, as determined by  
12 the superintendent of public instruction, exceeds the reimbursement provided by the state, the  
13 student's school district of residence is liable to pay for each such student an amount over the  
14 state reimbursement up to a maximum each school year of two and one-half times the state  
15 average per student elementary cost of education or high school cost of education, depending  
16 on the student's level of enrollment, plus twenty percent of all remaining costs. The two and  
17 one-half times amount includes the amount that the school district is required to pay under  
18 section 15.1-32-14. The state is liable for eighty percent of the remaining cost of education and  
19 related services for each such student with disabilities within the limits of legislative  
20 appropriations.

21 **15.1-32-19. Boarding care costs - Reimbursement of school district.** The  
22 superintendent of public instruction, within the limits of legislative appropriation, shall reimburse  
23 a student's school district of residence an amount equal to eighty percent of the room and  
24 board costs paid for a student with disabilities who is placed in a facility located outside of the  
25 student's school district of residence in order to receive special education services not available  
26 within the student's school district of residence. The student's school district of residence is  
27 liable for any room and board costs in excess of those reimbursed as provided in this section.  
28 The placement of a student with disabilities in a public or private facility will be made by a  
29 school district. The placement of a student with disabilities in congregate care will be made in a  
30 facility designated by the department of human services.

1           **15.1-32-20. School district financing - Levy.** The board of a school district may  
2 budget an amount from the school district general fund for its special education program. With  
3 approval by a majority of the board, the school board may levy a tax pursuant to subdivision d  
4 of subsection 1 of section 57-15-14.2 for the purpose of carrying out a special education  
5 program, separately or jointly with other school districts.

6           **15.1-32-21. Federal aid for special education.**

- 7           1. The superintendent of public instruction may apply for, receive, and administer  
8 federal aid available for the provision of special education services to students.
- 9           2. The superintendent may expend any federal aid received in the administration of  
10 this chapter within the limits of legislative appropriations.
- 11           3. School districts and multidistrict special education units are deemed to be local  
12 education agencies for purposes related to the funding of special education  
13 services within the limits of legislative appropriations.
- 14           4. The school for the blind, the school for the deaf, the developmental center at  
15 westwood park, Grafton, the youth correctional center, and the Jamestown state  
16 hospital may apply for, receive, and administer federal aid and may expend federal  
17 aid within the limits of legislative appropriations.

18           **15.1-32-22. Right to educational services - Attorneys' fees.** In any judicial  
19 proceeding to enforce the rights of an individual with disabilities to receive educational services,  
20 the court may award reasonable attorneys' fees and costs to a prevailing parent or to the  
21 individual with disabilities.

22           **15.1-32-23. Special education teachers - Credentialing process.** The  
23 superintendent of public instruction may not change the credentialing process for special  
24 education teachers as it is in effect on July 1, 2001, without first convening a meeting to include  
25 representatives of the North Dakota council of education leaders, the council of exceptional  
26 children, the North Dakota education association, and the North Dakota school boards  
27 association. The purpose of the meeting is to receive comments regarding the proposed  
28 changes, the applicability of the proposed changes, including the scheduling, the manner of  
29 implementation, associated costs, and the short-term and long-term effects of the proposed  
30 changes. If, within thirty days after the date of the meeting, members of any two representative

1 groups present at the meeting object in writing to the proposed changes, the superintendent  
2 may not implement the proposed changes before July 1, 2003.

3 **SECTION 17.** Chapter 15.1-33 of the North Dakota Century Code is created and  
4 enacted as follows:

5 **15.1-33-01. Multidistrict special education unit - Corporation.** Each multidistrict  
6 special education unit is a body corporate and has all the powers and duties usual to  
7 corporations for public purposes or as conferred upon it by law.

8 **15.1-33-02. Multidistrict special education units - School district participation.** A  
9 school district may join a multidistrict special education unit or together with other school  
10 districts form a multidistrict special education unit for purposes of planning and delivering  
11 special education and related services. Each school district shall participate in a multidistrict  
12 special education unit or have on file with the superintendent of public instruction a plan for  
13 providing special education and related services as a single district. If a school district wishes  
14 to join a multidistrict special education unit from which it has been excluded, the school district  
15 may petition the superintendent of public instruction. A school district may appeal a decision of  
16 the superintendent under this section to the state board of public school education.

17 **15.1-33-03. Multidistrict special education unit - Organizational plan - Contents.**  
18 Each multidistrict special education unit shall maintain an organizational plan on file with the  
19 superintendent of public instruction. The organizational plan must include:

- 20 1. A list of the unit's board members.
- 21 2. A description of how each school district is represented on the board.
- 22 3. The method used to select officers.
- 23 4. The terms of office.
- 24 5. Scheduled meeting times.
- 25 6. Quorum requirements.
- 26 7. Any other items required through rule by the superintendent of public instruction.

27 **15.1-33-04. Multidistrict special education unit - Board member appointments.**

28 The organizational plan of each multidistrict special education unit must provide for the manner  
29 in which board members are appointed.

30 **15.1-33-05. Multidistrict special education unit - Board members - Compensation.**

31 The board of each multidistrict special education unit shall set a level of compensation for

1 services payable to its members, provided that no member may receive more than one  
2 thousand dollars annually for this purpose. In addition to compensation for services, each  
3 member may be reimbursed for all necessary meals and lodging and travel expenses actually  
4 incurred while engaged in official business of the board, at the same rate as provided for state  
5 officers and employees. Any mileage claimed may not exceed the number of miles [kilometers]  
6 between the points traveled as measured by the most usual route.

7 **15.1-33-06. Withdrawal from a multidistrict program.** In order for a school district to  
8 withdraw from a multidistrict special education unit, the following must occur on or before March  
9 first before the school year for which the withdrawal is to be effective:

- 10 1. The board of the withdrawing school district shall approve the withdrawal.
- 11 2. The board of the withdrawing school district shall inform the board of the  
12 multidistrict special education unit that it has elected to withdraw from the unit.
- 13 3. The board of the withdrawing school district shall submit a plan to the  
14 superintendent of public instruction regarding the provision of services to students  
15 with disabilities.

16 **15.1-33-07. Multidistrict special education unit - Board - Preparation of annual**  
17 **plan.** The board of a multidistrict special education unit shall prepare, on behalf of the  
18 participating school districts, an annual plan regarding the provision of special education and  
19 related services and shall submit the plan to the superintendent of public instruction for  
20 approval.

21 **15.1-33-08. Multidistrict special education unit - Board - Powers.** The board of a  
22 multidistrict special education unit may:

- 23 1. Receive state and federal funds and distribute them to each participating school  
24 district.
- 25 2. Employ personnel necessary to carry out administrative services, itinerant  
26 instruction, coordinative services, and related services.
- 27 3. Receive private and public funds and expend such funds for the compensation of  
28 personnel and for the payment of the board's expenses.
- 29 4. Contract with the board of any school district for the provision of special education  
30 and related services.

1           **15.1-33-09. Multidistrict special education unit - Board - Coordination of student**  
2 **transportation.** The board of a multidistrict special education unit shall plan and coordinate the  
3 transportation of each student receiving special education services within the unit.

4           **15.1-33-10. Multidistrict special education board - Rights of employees.** Any  
5 individual employed by the board of a multidistrict special education unit has the same statutory  
6 rights as those accorded to an individual employed by a school district for the same purpose.

7           **SECTION 18.** Chapter 15.1-34 of the North Dakota Century Code is created and  
8 enacted as follows:

9           **15.1-34-01. Definitions.** As used in this chapter:

- 10           1. "Boarding home care for a student with disabilities" means the provision of food,  
11           shelter, security, and safety, on a twenty-four-hour basis, to an individual who has  
12           reached the age of three years but who has not reached the age of twenty-one  
13           before September first of the year in which the individual turns twenty-one and who  
14           because of mental, physical, emotional, or learning characteristics requires regular  
15           or special education and related services designed to meet the individual's  
16           educational needs.
- 17           2. "Department" means the department of human services.
- 18           3. "Family boarding home" means a private residence at which boarding home care is  
19           regularly provided by the owner or lessee to no more than four students with  
20           disabilities. The limit of four students may be exceeded if all the students boarding  
21           at the home are related to each other by blood or marriage.
- 22           4. "Registration" means the process by which the department maintains a record of  
23           all family boarding homes, prescribes standards and adopts rules under section  
24           15.1-34-14, and requires the operator of a home to certify that the operator has  
25           complied with the prescribed standards and adopted rules.
- 26           5. "Registration certificate" means a document issued by the department to provide  
27           public notice that the certificate holder is in compliance with this chapter and the  
28           applicable rules and standards prescribed by the department.
- 29           6. "Relative" means a grandparent, brother, sister, stepparent, stepsister, stepbrother,  
30           uncle, or aunt of the student by marriage, blood, or adoption.

1           **15.1-34-02. Students with disabilities - Boarding home care - Registration**

2 **certificate.** A person may not establish or operate a family boarding home unless the person  
3 first obtains a registration certificate from the department. This section does not apply if the  
4 student's boarding and care are provided in:

- 5           1. The home of a relative.
- 6           2. A home or institution under the management and control of the state or the board  
7           of a school district.
- 8           3. A home providing "foster care for children" as defined in section 50-11-00.1.

9           **15.1-34-03. Registration certificate - Application.**

- 10          1. In order to obtain a registration certificate for a family boarding home, a person  
11           shall complete an application form available from the department.
- 12          2. The department may investigate the applicant's activities and may inspect the  
13           home for which the registration is sought.
- 14          3. The department shall grant the registration certificate within ten working days from  
15           the date the department receives the application if:
  - 16           a. The home is in sanitary condition;
  - 17           b. The home is properly equipped to provide for the health and safety of student  
18           boarders; and
  - 19           c. The individual in charge of the home and all assistants are qualified to fulfill  
20           the duties required of them under this chapter and under any rules or  
21           standards prescribed by the department.
- 22          4. A registration certificate issued under this section is effective for up to two years.

23           **15.1-34-04. Boarding home fire inspection - Report.** The state department of health,  
24 the state fire marshal, or a designee of the state fire marshal shall inspect any home for which a  
25 registration certificate is sought if requested to do so by the department. The entity conducting  
26 the inspection under this section shall prepare an inspection report and present the report to the  
27 department.

28           **15.1-34-05. Boarding home - Conditions - Inspection - Investigation of owner or**  
29 **operator.** At any time, the department or its authorized agents may inspect the conditions of a  
30 family boarding home and investigate the qualifications of the owner or operator.

1           **15.1-34-06. Conviction - Effect on registration - Exceptions.** A person who has  
2 been convicted of an offense may not be disqualified from registration under this chapter,  
3 unless:

- 4           1. The department determines that the offense has a direct bearing upon the person's  
5 ability to serve the public as an owner or operator of a boarding home for students  
6 with disabilities; or
- 7           2. Following conviction for any offense, the department deems that the person is not  
8 sufficiently rehabilitated under section 12.1-33-02.1.

9           **15.1-34-07. Registration certificate - Denial - Administrative hearing.** If after  
10 reviewing a person's application for a registration certificate the department elects to deny the  
11 application, the department shall serve the applicant with notice of the denial and with the  
12 reasons for the denial. The department shall hold an administrative hearing under chapter  
13 28-32 regarding the person's application and its subsequent denial if requested to do so by the  
14 applicant within ten days from the date on which the department served the notice of denial.

15           **15.1-34-08. Registration certificate - Information.** The registration certificate must  
16 indicate the name of the owner or operator of the boarding home, the location of the boarding  
17 home, and the maximum number of students with disabilities who, at any one time, may board  
18 at the home.

19           **15.1-34-09. Records - Maintenance - Examination.** Any person to whom a  
20 registration certificate has been issued shall:

- 21           1. Maintain records regarding each student for whom care is provided, as directed by  
22 the department;
- 23           2. Submit forms and other information regarding each student for whom care is  
24 provided, as directed by the department; and
- 25           3. Allow department personnel and authorized agents of the department to examine  
26 all books, records, and reports regarding the home and each student for whom  
27 care is provided.

28           **15.1-34-10. Records - Students - Confidentiality.** All records and information  
29 regarding a student for whom care is provided under this chapter are confidential and may be  
30 disclosed only:

- 31           1. As part of a judicial proceeding;

- 1           2. To officers of the law;
- 2           3. To representatives of a governmental entity;
- 3           4. To the parent of a student for whom care is provided under this chapter; and
- 4           5. To any person who in the opinion of the department has, or may acquire, an
- 5           advocacy function on behalf of a student for whom care is provided under this
- 6           chapter.

7           **15.1-34-11. Registration certificate - Revocation.** The department may revoke a  
8 registration certificate issued under this chapter if:

- 9           1. The home is in an unsanitary condition.
- 10          2. The home is not properly equipped to provide for the health and safety of the
- 11          students.
- 12          3. The individual in charge of the home and all assistants are not qualified to fulfill the
- 13          duties required of them under this chapter and under any rules adopted by the
- 14          department.
- 15          4. The owner or operator does not comply with the standards prescribed by the
- 16          department.
- 17          5. The registration certificate was issued as a result of an application that contained
- 18          fraudulent information or an untrue representation.
- 19          6. The person to whom the registration certificate was issued violated a rule adopted
- 20          by the department.
- 21          7. The person to whom the registration certificate was issued is found guilty of an
- 22          offense which, in the determination of the department, has a direct bearing upon
- 23          the person's ability to serve the public as an owner or operator of a boarding home
- 24          for students with disabilities.
- 25          8. The person to whom the registration certificate was issued is found guilty of any
- 26          offense and the department determines that the person is not sufficiently
- 27          rehabilitated under section 12.1-33-02.1.

28           **15.1-34-12. Registration certificate - Revocation - Administrative hearing.** Before  
29 the department may revoke a person's registration certificate, the department shall serve the  
30 holder of the registration certificate with notice of the revocation and the grounds for the  
31 revocation. The department shall hold an administrative hearing under chapter 28-32 regarding



1 the revocation of the person's registration certificate, if requested to do so by the holder of the  
2 registration certificate within ten days from the date on which the department served the notice  
3 of revocation.

4 **15.1-34-13. Student with disabilities - Placement by governmental entity -**

5 **Requirements.** A governmental entity may not provide for the placement of a student with  
6 disabilities in a family boarding home unless the person operating the home:

- 7 1. Has obtained a registration certificate; or
- 8 2. Is exempt from the registration requirement under subsection 1 or 2 of section  
9 15.1-34-02 and complies with all applicable standards and rules adopted by the  
10 department.

11 **15.1-34-14. Minimum standards - Rules - Inspection by governmental entity.** The  
12 department may:

- 13 1. Establish standards for the registration and operation of a family boarding home.
- 14 2. Allow the application of alternate standards, if appropriate.
- 15 3. Adopt rules governing the provision of boarding home care to students with  
16 disabilities.
- 17 4. Authorize a governmental entity to:
  - 18 a. Inspect any home for which a registration certificate is sought under this  
19 chapter; and
  - 20 b. Certify that the home meets the requirements of this chapter and any  
21 standards set by the department.

22 **15.1-34-15. Penalty.** A person who violates this chapter is guilty of a class B  
23 misdemeanor.

24 **SECTION 19.** Chapter 15.1-35 of the North Dakota Century Code is created and  
25 enacted as follows:

26 **15.1-35-01. Definitions.** In this chapter unless the context otherwise requires:

- 27 1. "Child nutrition program" means any program that provides federal assistance for  
28 the provision of nutritious meals to children.
- 29 2. "Food distribution program" means any program that provides federally donated  
30 agricultural commodities, products, and other foods, or cash payments in lieu of  
31 foods, to eligible participants.

1           3. "School" means a public school or a not-for-profit nonpublic school.

2           **15.1-35-02. Federal funds - Contracts - Expenditures.** The superintendent of public  
3 instruction shall administer federal funds designed to provide nonprofit child nutrition programs  
4 and food distribution programs for eligible participants. The superintendent of public instruction  
5 may enter a contract with any agency of the federal government so that the state may use  
6 available federal funds to the fullest extent possible. The superintendent of public instruction  
7 shall receive, deposit, and disburse any funds received in accordance with state and federal  
8 law.

9           **15.1-35-03. Administration of program - Rules - Disbursement of funds.** In order  
10 to provide for the establishment, maintenance, operation, and expansion of any child nutrition  
11 and food distribution program, the superintendent of public instruction may:

- 12           1. Contract with any public or private entity.
- 13           2. Adopt rules.
- 14           3. Employ personnel.
- 15           4. Provide technical advice and assistance to any public or private entity.
- 16           5. Assist in the training of personnel.
- 17           6. Disburse state and federal funds.
- 18           7. Take any other necessary action, in accordance with state and federal law.

19           **15.1-35-04. Board of a school district - Use of funds.** The board of a school district  
20 may expend any funds or gifts received by it under this chapter, and any funds received from  
21 the sale of meals under a child nutrition and food distribution program.

22           **15.1-35-05. Accounts and records - Rules - Reporting - Availability.** The  
23 superintendent of public instruction shall adopt rules regarding recordkeeping, accounting, and  
24 reporting by any public or private entity participating in a child nutrition or food distribution  
25 program. All accounts and records must be available for inspection and audit at any time by  
26 authorized officials and must be preserved for the period of time prescribed by the  
27 superintendent of public instruction. The superintendent of public instruction shall conduct or  
28 cause to be conducted audits, inspections, and administrative reviews of accounts, records,  
29 and operations with respect to child nutrition and food distribution programs, as necessary to  
30 determine whether the participants are complying with the terms of any contracts entered under  
31 this chapter, to determine whether the participants are following the rules adopted under this

1 chapter, and to ensure that child nutrition and food distribution programs are effectively  
2 administered.

3 **15.1-35-06. Studies - Appraisals - Reports to governor.** In cooperation with other  
4 public and private entities, the superintendent of public instruction may:

- 5 1. Study methods to improve and expand child nutrition and food distribution  
6 programs;
- 7 2. Study methods to promote nutrition education in schools;
- 8 3. Conduct appraisals regarding the nutritive benefits and other benefits of child  
9 nutrition and food distribution programs; and
- 10 4. Report the findings and recommendations to the governor.

11 **15.1-35-07. Food service personnel - Training.** Each individual who manages the  
12 food service operation of a public or nonprofit private entity, with which the superintendent of  
13 public instruction has entered a contract under this chapter, shall undergo initial and continuing  
14 training regarding the safe handling, preparation, and service of food. The superintendent of  
15 public instruction shall adopt rules prescribing the nature, scope, and frequency of the training.

16 **SECTION 20.** Chapter 15.1-36 of the North Dakota Century Code is created and  
17 enacted as follows:

18 **15.1-36-01. School construction projects - Approval.**

- 19 1. Notwithstanding the powers and duties of school boards provided by law, the  
20 superintendent of public instruction shall approve the construction, purchase,  
21 repair, improvement, modernization, or renovation of any public school building or  
22 facility before commencement of the project if the cost of the project, as estimated  
23 by the school board, is in excess of twenty-five thousand dollars.
- 24 2. The superintendent of public instruction may not approve a project unless the  
25 school district proposing the project:
  - 26 a. Demonstrates the need for the project, the educational utility of the project,  
27 and the ability to sustain a stable or increasing student enrollment for a period  
28 of time at least equal to the anticipated usable life of the project or  
29 demonstrates potential utilization of the project by a future reorganized school  
30 district; and

- 1           b. Demonstrates the capacity to pay for the project under rules adopted by the  
2           superintendent of public instruction pursuant to chapter 28-32 after receiving  
3           input from the state board of public school education.
- 4           3. If the superintendent of public instruction denies the project, the school board may  
5           appeal the superintendent's decision to the state board of public school education.  
6           The decision of the state board is final.
- 7           4. This section does not apply to any construction, purchase, repair, improvement,  
8           renovation, or modernization required as part of a plan of correction approved by  
9           the state fire marshal under section 15.1-06-09 unless the cost of the  
10          improvements exceeds seventy-five thousand dollars.
- 11          5. For purposes of this chapter, "facility" includes a public school parking lot, public  
12          school athletic complex, or any other improvement to real property owned by the  
13          school district.

14          **15.1-36-02. School construction projects - Loans.**

- 15          1. The board of university and school lands may authorize the use of moneys in the  
16          coal development trust fund established pursuant to section 21 of article X of the  
17          Constitution of North Dakota and subsection 1 of section 57-62-02 to provide  
18          school construction loans, as described in this chapter. The outstanding principal  
19          balance of loans under this chapter may not exceed forty million dollars. The  
20          board may adopt policies and rules governing school construction loans.
- 21          2. In order to be eligible for a loan under this section, the board of a school district  
22          shall:
  - 23           a. Obtain the approval of the superintendent of public instruction for its  
24           construction project under section 15.1-36-01; and
  - 25           b. Submit to the superintendent of public instruction an application containing all  
26           information deemed necessary by the superintendent, including potential  
27           alternative sources or methods of financing the construction project.
- 28          3. The board of a school district may submit its loan application to the superintendent  
29          of public instruction before or after receiving authorization of a bond issue in  
30          accordance with chapter 21-03. If the vote to authorize a bond issue precedes the  
31          application for a loan, the application must be acted upon by the superintendent

1           expeditiously but no later than one hundred eighty days from the date it is received  
2           by the superintendent.

3           4. The superintendent of public instruction shall consider each loan application in the  
4           order it received approval under section 15.1-36-01.

5           5. If the superintendent of public instruction approves the loan, the superintendent  
6           may determine the loan amount. In determining the amount of a loan, the  
7           superintendent shall take into account the cost of the construction project and the  
8           fiscal capacity of the school district.

9           6. If the superintendent of public instruction approves the loan, the superintendent  
10          may determine the interest rate to be paid. The interest rate on a loan under this  
11          section may not exceed a rate of two percent below the net interest rate on  
12          comparable tax-exempt obligations as determined on the date the application is  
13          approved by the superintendent pursuant to section 15.1-36-01. The interest rate  
14          may not exceed six percent.

15          7. A school district may not receive a loan under this section unless the  
16          superintendent of public instruction determines that the district has an existing  
17          indebtedness equal to at least fifteen percent of its taxable valuation. In  
18          determining a school district's existing indebtedness, the superintendent shall  
19          include outstanding indebtedness authorized by an election under section 21-03-07  
20          but not issued and indebtedness authorized to be paid with dedicated tax levies  
21          under subsection 7 of section 21-03-07 but not issued.

22          8. The superintendent of public instruction may adopt rules governing school  
23          construction loans.

24          9. For purposes of this section, a construction project means the purchase, lease,  
25          erection, or improvement of any structure or facility by a school board, provided the  
26          acquisition or activity is within a school board's authority and further provided that  
27          the acquisition or activity is estimated to cost in excess of fifty thousand dollars.

28           **15.1-36-03. School construction project loans - Management by Bank of North**

29 **Dakota.** If the superintendent of public instruction approves a loan application under section  
30 15.1-36-02, the superintendent shall forward the application to the Bank of North Dakota. The  
31 Bank shall manage and service each school construction loan issued under this chapter and

1 shall execute all necessary loan instruments. The Bank may charge a loan recipient a fee for  
2 managing and servicing the loan. The Bank shall receive payments of principal and interest  
3 from the school districts and shall remit the payments of principal and interest to the board of  
4 university and school lands. The board shall use or deposit the payments in accordance with  
5 section 57-62-02 and section 21 of article X of the Constitution of North Dakota.

6 **15.1-36-04. Evidences of indebtedness.** The board of a school district may issue and  
7 sell evidences of indebtedness under chapter 21-03 to finance the construction or improvement  
8 of a project approved under this chapter. The principal amount of the loan and the evidences of  
9 indebtedness to repay the loan may not exceed the lesser of thirty percent of the school  
10 district's taxable valuation or five million dollars. Evidences of indebtedness issued under this  
11 chapter constitute a general obligation of the school district.

12 **15.1-36-05. Construction of public school building - Violations - Penalty.**

- 13 1. A person is guilty of an infraction if the person:
- 14 a. Draws plans or specifications for the construction of a public school building  
15 or facility in violation of this chapter;
- 16 b. Superintends the construction of a public school building or facility in violation  
17 of this chapter;
- 18 c. Constructs a public school building or facility in violation of this chapter; or  
19 d. Violates any other provision of this chapter.
- 20 2. A member of a school board is guilty of an infraction if the member concurred in a  
21 violation of this chapter by the board.

22 **SECTION 21. REPEAL.** Chapters 15-21.1, 15-29, 15-34.1, 15-34.2, 15-35, 15-36,  
23 15-37, 15-38, 15-38.1, 15-38.2, 15-40.1, 15-40.2, 15-40.3, 15-41, 15-43, 15-44, 15-45, 15-47,  
24 15-54, 15-59, 15-59.2, 15-59.3, and 15-60 of the North Dakota Century Code are repealed.