

**Fifty-seventh Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 9, 2001**

HOUSE BILL NO. 1045  
(Legislative Council)  
(Education Services Committee)

AN ACT to create and enact chapters 15.1-13, 15.1-14, 15.1-15, 15.1-16, 15.1-17, 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, 15.1-32, 15.1-33, 15.1-34, 15.1-35, and 15.1-36 of the North Dakota Century Code, relating to elementary and secondary education; to repeal chapters 15-21.1, 15-29, 15-34.1, 15-34.2, 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, 15-45, 15-47, 15-54, 15-59, 15-59.2, 15-59.3, and 15-60 of the North Dakota Century Code, relating to elementary and secondary education provisions addressed in the creation of North Dakota Century Code title 15.1; to provide a penalty; and to provide a continuing appropriation.

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

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

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

1. "Administrator" means an individual who holds an administrator's credential and who is employed by the board of a school district for the primary purpose of providing administrative services to the schools of the district. The term includes a school district superintendent, an assistant or associate school district superintendent, a school principal, an assistant or associate school principal, a special education director, a director of a multidistrict special education unit, a vocational education director, and a director of a vocational technology center. The term may include an athletic or activity director who meets the requirements of this subsection.
2. "Board" means the education standards and practices board.
3. "Profession of teaching" means the provision in a public school district of teaching services, administrative services, or other services, which require licensure by the education standards and practices board.

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

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

**15.1-13-03. Board compensation.** Each member of the board is entitled to receive compensation in the amount of twenty-five dollars per day and to reimbursement for expenses as

provided by law for other state officers while attending meetings or performing duties directed by the board. A member of the board may not lose the member's regular salary and may not be required to refuse the compensation to which the member is entitled under this section for serving on the board.

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

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

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

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

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

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

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

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

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

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

1. The board shall establish by rule the criteria for teacher licensure and the process for issuing teaching licenses. The criteria must include considerations of character, adequate educational preparation, and general fitness to teach.
2. The board may not require a teacher who graduated from an accredited teacher education program on or before September 1, 1980, to earn any college credits in native American or other multicultural courses as a condition of licensure or license renewal.
3. This section does not affect the validity of teaching certificates in effect on July 31, 2001.
4. This section does not affect the qualifications for vocational education certificates, as otherwise established by law.

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

1. The board may set and charge a fee for:
  - a. Filing an application for a teaching license.
  - b. Issuing a teaching license.
2. Any fee collected by the board must be deposited and disbursed in accordance with section 54-44-12.

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

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

**15.1-13-14. Initial licensure of teachers - Background check.** The board shall check, or cause to be checked, the background of each applicant for initial licensure as a teacher. The board shall require each applicant for licensure to file a complete set of the applicant's fingerprints, taken by a law enforcement officer, and all other information necessary to complete a statewide and nationwide criminal history check with the bureau of criminal investigation for state processing and filing with the federal bureau of investigation for federal processing. All costs associated with the background check and with obtaining and processing the fingerprints are the responsibility of the applicant. Criminal history records provided to the board pursuant to this section are confidential and closed to the public and may only be used by the board for determining an applicant's eligibility for licensure and obtaining documentation to support a denial of licensure.

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

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

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

2. The applicant shall execute the oath or affirmation in duplicate. One copy of the oath or affirmation must be filed with the board when the applicant applies for a teaching license. The applicant shall retain the other copy.
3. The board may not issue a license to teach unless a duly witnessed or notarized oath or affirmation has been filed with the board.

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

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

1. An individual may not engage in the profession of teaching unless:
  - a. The individual holds a teaching license issued by the board; or
  - b. The individual is approved to teach by the board.
2. An individual may be approved to teach by the board only if the individual has previously held a North Dakota teaching certificate or license, holds a teaching certificate or license issued by another state, or has filed a completed application for licensure with the board.
3. The board shall adopt rules establishing the terms and conditions under which an individual may be approved to teach, as provided for in this section. The terms and conditions may include the payment of a fine to the board, enrollment in and completion of continuing education courses, and submission of a completed application for licensure by a date certain.

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

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

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

1. The board shall grant an interim reciprocal teaching license in accordance with sections 15.1-18-02 and 15.1-18-03 to an individual who holds a regular teaching license or certificate from another state, provided:
  - a. The individual's licensure or certification is based upon a minimum of a bachelor's degree with a major that meets the issuing state's requirements in elementary education, middle-level education, or a content area taught at a public high school;
  - b. The individual's licensure or certification is based upon the completion of a professional education sequence from a state-approved teacher education program and includes supervised student teaching;
  - c. The individual submits to a background check as required of initial applicants by this chapter;

- d. The background check reveals nothing for which a North Dakota applicant would be denied initial licensure; and
  - e. The individual submits a plan for meeting all requirements necessary to become a licensed teacher in this state.
2. An interim reciprocal license granted under this section is valid for two years.
  3. The individual shall submit evidence of progress on the plan required by subsection 1 to the board prior to renewal of the interim reciprocal license.
  4. The board may renew the interim reciprocal license for one additional two-year period if the board finds that the individual has demonstrated satisfactory progress.
  5. Notwithstanding any other law, an interim reciprocal license granted under this section is the equivalent of a teaching license granted under this chapter.

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

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

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

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

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

1. Any person may file with the board a complaint against a teacher or an administrator. The complaint must state the claims or charges and it must be signed. The complaint may include supporting documentation.
2. Upon receiving the complaint, the board shall serve a copy of the complaint and any supporting documentation upon the individual personally or by certified mail.
3. The individual has twenty days from the date the individual receives the complaint within which to file a response. The response may include supporting documentation.
4. If the individual files a timely response, the board shall meet to review the complaint, the response, and any documentation submitted by the parties, but may not accept testimony.

5. Based on the complaint, the response, and the documentation submitted in accordance with this section, the board may:
  - a. Dismiss the complaint as unfounded; or
  - b.
    - (1) Determine there is a reasonable basis to believe the claims or charges are true and subject to action by the board under this chapter;
    - (2) File a formal complaint against the individual in accordance with chapter 28-32; and
    - (3) Schedule and hold a public hearing on the complaint in accordance with chapter 28-32.
6. If the individual fails to file a timely response, the board shall determine whether the individual's failure to file a timely response constitutes an admission of the allegations in the complaint and whether the individual's teaching license should be subject to action by the board. If the board determines that the individual's failure to file a timely response is an admission of the allegations in the complaint and that the individual's teaching license should be subject to action by the board, the board shall hold a hearing in accordance with chapter 28-32 to take any appropriate action.

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

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

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

1. The board shall deny an application for a teaching license and shall immediately revoke the teaching license of an individual who has been found guilty of a crime against a child or a sexual offense.

2. An individual who is denied a teaching license or who has had a teaching license revoked under subsection 1 may file a request with the board for a due process hearing under chapter 28-32. The hearing must be held within ten days of the request. The scope of the hearing is limited to determining whether the individual was convicted of a crime against a child or a sexual offense and whether the conviction has been overturned on appeal.
3. A final decision denying a teaching license or revoking a teaching license under this section is appealable pursuant to chapter 28-32. A court may not stay the decision pending an appeal. A court shall affirm the decision denying a teaching license or revoking a teaching license unless the court finds that the individual was not convicted of a crime against a child or a sexual offense or that the conviction was overturned on appeal.
4. The board may impose a fee against a licensee as reimbursement for all or part of the costs of administrative actions that result in disciplinary action against the licensee under this section.
5. As used in this section:
  - a. "Conviction" means a finding of guilt, a guilty plea, a plea of no contest, a plea of nolo contendere, a judgment of conviction even though the court suspended execution of sentence in accordance with subsection 3 of section 12.1-32-02, or a deferred imposition of sentence in accordance with subsection 4 of section 12.1-32-02 or an equivalent statute. The term does not include a finding of guilt overturned on appeal.
  - b. "Crime against a child" means violation of section 12.1-16-01, 12.1-16-02, 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, 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, 12.1-18-02, 12.1-18-03, 12.1-29-01, 12.1-29-02, or 12.1-29-03, or an equivalent ordinance, in which the victim is a minor or is otherwise of the age required for the act to be a crime or an attempt to commit these offenses.
  - c. "Sexual offense" means a violation of section 12.1-20-03, 12.1-20-03.1, 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, or chapter 12.1-27.2, or an equivalent ordinance.

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

1. If an individual's teaching license is suspended or revoked, the board shall notify the individual, the business manager of the school district employing the individual, each county superintendent of schools in the state, and the superintendent of public instruction.
2. Upon being notified that one's teaching license has been suspended or revoked, the individual shall return the license to the education standards and practices board. If the individual fails to return the license within the time period set by the board, the board may publish notice of the suspension or revocation in the official newspaper of the county in which the individual was employed.

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

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

1. Notwithstanding the provisions of any other law, when a complaint regarding an administrator is filed with the board, all actions and determinations provided for in this chapter must be made by a subcommittee of the board.

2. The subcommittee must consist of the two board members who are administrators, the board member who is a school board member, and two board members who are teachers and who have been appointed to the subcommittee by the board.
3. The subcommittee shall convene at a regular or special meeting of the board.
4. The subcommittee shall select its own chairman and vice chairman and the executive director of the board, or the director's designee, shall serve as its secretary.
5.
  - a. A majority of the subcommittee constitutes a quorum for purposes of this section.
  - b. Except as otherwise provided in this section, a majority of the quorum has the authority to act on any matter properly before the subcommittee.
  - c. At least three members of the subcommittee must consent to the revocation of an administrator's teaching license.
6. Any action or determination by the subcommittee regarding the teaching license of an administrator:
  - a. Must be taken or made by the same process and on the same grounds as provided in sections 15.1-13-24, 15.1-13-25, and 15.1-13-26;
  - b. Has the same force and effect as an action or determination by the education standards and practices board;
  - c. May not be modified by the board; and
  - d. May be appealed under this chapter in the same manner as actions or determinations by the board.

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

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

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

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

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

**15.1-14-02. School district superintendent - Bond.** A school district superintendent shall furnish to the school district a bond in an amount fixed by the board of the school district and equal to at least the maximum amount of money that may be subject to the superintendent's control at any one time. The bond must be conditioned for the faithful discharge of the superintendent's duties, including the maintenance of accurate financial records and the safekeeping and deliverance of all school



property and funds that come under the superintendent's control. The bond must be written through the state bonding fund and must be obtained at the expense of the school district.

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

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

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

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

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

1. If the board of a school district intends to discharge a superintendent for cause prior to the expiration of the superintendent's contract, the board shall:
  - a. Provide the superintendent with a written description of the reasons for the discharge; and
  - b. Provide the superintendent with written notice specifying the date and time at which the board will conduct a hearing regarding the discharge.
2. If the superintendent chooses to be accompanied by an attorney, the legal expenses attributable to that representation are the responsibility of the superintendent.

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

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

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

**15.1-14-08. School district superintendent - Suspension during discharge proceeding - Compensation.** The board of a school district may suspend a superintendent if, by unanimous vote, the board determines that suspension is appropriate during the period in which a discharge for cause is pursued. If the superintendent is ultimately discharged for cause, the board may determine the amount of compensation, if any, due the superintendent during the period of suspension. If the superintendent is ultimately not discharged, the board may not apply any reduction to the superintendent's salary for the period of suspension.

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

1. If the board of a school district contemplates not renewing the contract of a superintendent who has been employed by the board in that position for at least two consecutive years, the board shall on or before April fifteenth:
  - a. Provide written notification of the contemplated nonrenewal to the superintendent.
  - b. Schedule a hearing to be held on or before April twenty-first for the purpose of discussing and acting upon the contemplated nonrenewal.
  - c. Provide written notification of the date, time, and place for the hearing to the superintendent.
  - d. Provide written notification of the reasons for the contemplated nonrenewal to the superintendent.
2. a. The reasons for the contemplated nonrenewal of the superintendent's contract must:
  - (1) Be sufficient to justify the contemplated nonrenewal;
  - (2) Relate to the ability, competence, or qualifications of the superintendent; and

- (3) Originate from specific findings documented in the formal evaluation of the superintendent's performance required by section 15.1-14-03.
- b. The provisions of this section do not apply if the contemplated nonrenewal is based on a necessary reduction in personnel.

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

1. At the hearing required by section 15.1-14-09, the board of the school district shall present testimony or documentary evidence to substantiate the reasons for the contemplated nonrenewal of a superintendent who has been employed by the board in that position for at least two consecutive years.
2. The superintendent may call witnesses and present evidence necessary to refute the reasons for nonrenewal.
3. Each witness appearing on behalf of the board of the school district or the superintendent may be questioned for the purpose of clarification.
4. Unless otherwise agreed to by the board and the superintendent, the hearing must be conducted as an executive session of the board, except that:
  - a. The superintendent may invite to the hearing any two representatives to speak on behalf of the superintendent and may invite the superintendent's spouse or one other family member.
  - b. The board may invite to the hearing any two representatives to speak on behalf of the board and may invite the school district business manager.
5. If the superintendent chooses to be accompanied by an attorney, the legal expenses attributable to that representation are the responsibility of the superintendent.
6. If a continuance is requested by the superintendent, the board shall grant a continuance for a period not to exceed seven days.
7. No cause of action for libel or slander may be brought regarding any communication made at an executive session held by the board for the purposes provided in this section.
8. If, after considering the testimony and evidence presented at the hearing, the board chooses not to renew the contract of the superintendent, the board shall provide written notice of its decision to the superintendent on or before May first.

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

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

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

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

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

**15.1-14-14. Multidistrict special education unit - Director - Grounds for dismissal.** The board of a multidistrict special education unit may dismiss a director prior to the expiration of the individual's contract for any of the following causes:

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

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

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

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

1. At the hearing, the director may produce evidence and witnesses to rebut any reasons given by the board of the multidistrict special education unit for its discharge of the director.
2. The hearing must be conducted in accordance with chapter 28-32.
3. All witnesses are subject to cross-examination.

4. Unless otherwise agreed to by the board and the director, the hearing must be conducted as an executive session of the board, except that:
  - a. The director may invite to the hearing any two representatives to speak on behalf of the director and may invite the director's spouse or one other family member.
  - b. The board may invite to the hearing any two representatives to speak on behalf of the board and may invite the unit's business manager.
5. If a continuance is requested by the director, the board shall grant a continuance for a period not in excess of seven days. The board may grant a continuance in excess of seven days upon a showing of good cause.
6. No cause of action for libel or slander may be brought regarding any communication made at an executive session held by the board for the purposes provided in this section.

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

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

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

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

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

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

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

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

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

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

1. Before December fifteenth of each year, the board of an area vocational and technology center shall conduct a formative evaluation of the director's performance.
2. Before March fifteenth of each year, the board shall conduct a formal evaluation of the director's performance. The board shall place a copy of the evaluation report in the director's file and shall provide a copy of the evaluation report to the director.

3. If the board finds the director's performance to be unsatisfactory in any area, the board shall detail its findings regarding the director's performance in the report and shall make recommendations.
4. Upon receiving the report, the director may provide a written response to the board. The board shall place the director's written response in the director's personnel file.
5. The board shall meet with the director to discuss the evaluation.

**15.1-14-24. Area vocational and technology center - Director - Grounds for dismissal.**

The board of an area vocational and technology center may dismiss a director prior to the expiration of the individual's contract for any of the following causes:

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

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

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

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

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

- b. The board may invite to the hearing any two representatives to speak on behalf of the board and may invite the center's business manager.
5. If a continuance is requested by the director, the board shall grant a continuance for a period not in excess of seven days. The board may grant a continuance in excess of seven days upon a showing of good cause.
6. No cause of action for libel or slander may be brought regarding any communication made at an executive session held by the board for the purposes provided in this section.

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

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

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

1. If the board of an area vocational and technology center contemplates not renewing the contract of a director who has been employed by the board in that position for at least two consecutive years, the board shall on or before April fifteenth:
  - a. Provide written notification of the contemplated nonrenewal to the director.
  - b. Schedule a hearing to be held on or before April twenty-first for the purpose of discussing and acting upon the contemplated nonrenewal.
  - c. Provide written notification of the date, time, and place for the hearing to the director.
  - d. Provide written notification of the reasons for the contemplated nonrenewal to the director.
2.
  - a. The reasons for the contemplated nonrenewal of the director's contract must:
    - (1) Be sufficient to justify the contemplated nonrenewal;
    - (2) Relate to the ability, competence, or qualifications of the director; and
    - (3) Originate from specific findings documented in the formal and written evaluations of the director's performance required by section 15.1-14-23.
  - b. The provisions of this section do not apply if the contemplated nonrenewal is based on a necessary reduction in personnel.

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

1. At the hearing required by section 15.1-14-29, the board of the area vocational and technology center shall present testimony or documentary evidence to substantiate the reasons for the contemplated nonrenewal of a director who has been employed by the board in that position for at least two consecutive years.



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

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

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

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

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

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

1. a. The school district shall conduct two performance reviews of each individual employed as a teacher, a principal, or as an assistant or associate superintendent during each of the first three years an individual holds such a position. The school district shall prepare written reports of the individual's performance. The school district shall make the first yearly report available to the individual on or before December fifteenth. The school district shall make the second yearly report available to the individual on or before March fifteenth.
- b. If an individual begins employment as a teacher, a principal, or as an assistant or associate superintendent after January first, the school district shall conduct one

review of the individual's performance. The school district shall make the written report available to the individual on or before March fifteenth.

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

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

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

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

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

6. The provisions of this section are applicable only through the conclusion of the school year in which the individual was employed.

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

1.
  - a. If the board of a school district elects not to renew the contract of a teacher, a principal, or an assistant or associate superintendent for the ensuing school year, the board shall provide written notification of the decision to the individual.
  - b. The board may not notify the individual under this section earlier than March first nor later than May first of the school year in which the individual has been employed.
  - c. The failure of a board to provide written notice under this subsection constitutes an offer to renew the individual's contract for the ensuing school year, under the same terms and conditions as the individual's current contract.
2.
  - a. No earlier than March first nor later than May first, the board of a school district shall notify each individual offered renewal of a contract of the date by which the individual must accept or reject the contract.
  - b. At least thirty calendar days must pass between the notification of each individual, as required by this subsection, and the date by which the individual must accept or reject the contract.
3.
  - a. In order to accept an offer to renew a contract, including an offer generated by the failure of a board to provide written notice as required by subsection 1, an individual shall provide written notification of acceptance to the board on or before the date required by the board or June first, whichever is earlier. An individual accepting an offer to renew a contract is entitled to a written contract for the ensuing school year.
  - b. In order to reject an offer to renew a contract, including an offer generated by the failure of a board to provide written notice as required by subsection 1, an individual shall provide written notification of rejection to the board on or before the date required by the board or June first, whichever is earlier.
  - c. If an individual fails to provide notification of acceptance or rejection of an offer to renew a contract, the board is relieved of any continuing contract provisions.
4. If negotiations are being carried on pursuant to chapter 15.1-16, the provisions of this section requiring the board of a school district to give an individual notice and requiring that the individual respond to the notice are suspended until the negotiations are completed.

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

1. If the board of a school district contemplates not renewing the contract of an individual employed as a teacher, a principal, or as an associate or assistant superintendent, the board shall, no earlier than March first nor later than April fifteenth:
  - a. Provide written notification of the contemplated nonrenewal to the individual.
  - b. Schedule a hearing to be held on or before April twenty-first for the purpose of discussing and acting upon the contemplated nonrenewal.
  - c. Provide written notification of the date, time, and place for the hearing to the individual.
  - d. Provide written notification of the reasons for the contemplated nonrenewal to the individual.

2. The reasons for the contemplated nonrenewal of the individual's contract must not be frivolous or arbitrary. The reasons must be sufficient to justify the contemplated nonrenewal and must:
  - a. Originate from specific findings documented in the report of the individual's performance required by section 15.1-15-01 and relate to the individual's ability, competence, or qualifications; or
  - b. Originate from the needs of the district in justifying a reduction in the staff.

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

1. At the hearing required by section 15.1-15-05, the school district superintendent or a designee of the board shall present testimony or documentary evidence regarding the reasons for the contemplated nonrenewal of the individual's contract.
2. The board of the school district contemplating the nonrenewal of an individual's contract may call additional witnesses to present testimony or documentary evidence regarding the reasons for nonrenewal.
3. The individual whose contract is subject to nonrenewal may call witnesses and produce evidence necessary to refute the reasons for the nonrenewal.
4. Each witness appearing on behalf of the board of the school district or the individual whose contract is subject to nonrenewal may be questioned for the purpose of clarification.
5. The board of the school district shall review all testimony and evidence presented at the hearing and make a determination regarding the nonrenewal. If the board determines that the reasons for nonrenewal have not been substantiated, the board shall dismiss the nonrenewal proceedings.
6. Unless otherwise agreed to by the board of the school district and the individual subject to the nonrenewal, the hearing must be conducted as an executive session of the board, except that:
  - a. The individual may invite to the hearing any two representatives, and the individual's spouse or one other family member; and
  - b. The board may invite to the hearing any two representatives, the school district business manager, and the school district superintendent.
7. The individual subject to the nonrenewal may request one continuance. If a continuance is requested, the board of the school district shall grant a continuance not in excess of seven days.
8. No cause of action for libel or slander may be brought regarding any communication made in an executive session of the board held for the purposes provided in this section.
9. A determination by the board of a school district not to renew an individual's contract is, if made in good faith, final and binding on all parties.
10. If the board of a school district elects not to renew an individual's contract, the board shall provide notice of its determination to the individual in writing on or before May first.

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

1. Immoral conduct.

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

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

1. If the board of a school district contemplates the discharge for cause of an individual employed as a teacher, a principal, or as an assistant or associate superintendent, prior to the expiration of the individual's contract, the board shall provide written notice to the individual at least ten days prior to the discharge date. The notice must:
  - a. State the date and time at which the board will conduct a special hearing to address charges against the individual; and
  - b. State that the individual may demand a list of the charges.
2. If the individual demands a list of charges under subsection 1, the board shall furnish the list to the individual at least five days before the hearing.
3. If the individual notifies the board in writing at least two days before the hearing that the individual intends to contest the charges, the board shall produce evidence of the charges at the hearing, together with witnesses who are subject to cross-examination by the individual or by a representative of the individual.
4. If a witness is a minor and if it is the wish of the witness or the witness's parent, the witness may be accompanied by legal counsel and a parent.
5. At the hearing, the individual may produce evidence and witnesses to refute any charges. Any witnesses produced by the individual are subject to cross-examination.
6. The hearing must be conducted in accordance with chapter 28-32.
7. Unless otherwise agreed to by the board and the individual, the hearing must be conducted as an executive session of the board, except that:
  - a. The individual may invite to the hearing any two representatives and the individual's spouse or one other family member; and
  - b. The board may invite to the hearing any two representatives, the school business manager, and the school district superintendent.
8. The individual subject to the discharge may request one continuance. If a continuance is requested, the board of the school district shall grant the continuance not in excess of seven days. Upon a showing of good cause by the individual, the board may grant a continuance in excess of seven days.
9. No cause of action for libel or slander may be brought regarding any communication made in an executive session of the board held for the purposes provided in this section.

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

1. The board of a school district may not discharge or refuse to renew the contract of a teacher, a principal, or an assistant or associate superintendent solely because a report of suspected child abuse or neglect under section 50-25.1-05 alleges participation by the individual.
2. If a report of suspected child abuse or neglect under section 50-25.1-05 alleges participation by a teacher, a principal, or an assistant or associate superintendent, the board of a school district may suspend the individual pending the outcome of the case.

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

1. The board of a school district may suspend an individual employed as a teacher, a principal, or as an assistant or associate superintendent if, by unanimous vote, the board determines that suspension is appropriate during the period in which a discharge for cause is pursued.
2. The board shall address the matter of the individual's suspension in an executive session, unless both the board and the individual agree that the matter may be addressed in the presence of others or at an open meeting of the board.
3. If the individual is ultimately discharged for cause, the board may determine the amount of compensation, if any, payable to the individual during the period of suspension. If the individual is ultimately not discharged, the board may not apply any reduction to the individual's salary for the period of suspension.

**15.1-15-11. Discharge for cause - Report to education standards and practices board.** If the board of a school district discharges for cause an individual employed as a teacher, a principal, or as an assistant or associate superintendent, the board shall report the discharge to the education standards and practices board.

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

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

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

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

1. "Administrator" means an individual who is employed by the board of a public school district primarily for administration of a school or schools of the district and who devotes at least fifty percent of the individual's time in any one year to the duties of administration of the school or schools of the district.
2. "Negotiating unit" means:
  - a. A group of administrators having common interests, common problems, a common employer, or a history of common representation, which warrants that group being represented by a single representative organization in negotiations with the board of a school district; or

- b. A group of teachers having common interests, common problems, a common employer, or a history of common representation, which warrants that group being represented by a single representative organization in negotiations with the board of a school district.
3. "Representative organization" means an organization authorized by a negotiating unit to represent the members of the unit in negotiations with a school board.
4. "Strike" means any concerted work stoppage, slowdown, or withholding of contracted services.
5. "Teacher" means a public school employee licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board and employed primarily as a classroom teacher.

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

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

**15.1-16-03. Education factfinding commission - Compensation.** Each member of the commission is entitled to receive compensation at the rate of sixty-two dollars and fifty cents per day and reimbursement for expenses, as provided by law for state officers, for attending commission meetings or performing duties directed by the commission.

**15.1-16-04. Education factfinders - Compensation.** Each factfinder appointed by the education factfinding commission, including each commission member who serves as a factfinder, is entitled to receive compensation at the rate of sixty-two dollars and fifty cents per day and reimbursement for expenses, as provided by law for state officers, for attending commission meetings or performing duties directed by the commission.

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

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

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

1. An individual employed as a teacher may form, join, and participate in the activities of a representative organization of the individual's choosing for the purpose of representation on matters of employer-employee relations.
2. An individual employed as an administrator may form, join, and participate in the activities of a representative organization of the individual's choosing for the purpose of representation on matters of employer-employee relations.

3. Any individual employed as a teacher or as an administrator may refuse to join or participate in the activities of a representative organization.

**15.1-16-08. Representative organization - Negotiating unit - Right to negotiate.** A representative organization has the right to represent a negotiating unit in matters of employee relations with the board of a school district. Any teacher or administrator has the right to present the individual's views directly to the board.

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

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

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

1.
  - a. If an organization is interested in representing a group of teachers or a group of administrators, the organization may file with the board of a school district a petition asserting that the organization represents a majority of the teachers or the administrators included within a negotiating unit.
  - b. The petition must be accompanied by evidence substantiating the assertion contained in it.
  - c. Within ten days after receiving the petition, the board of the school district shall post notice of its intent to consider the petition in each school wherein the members of the negotiating unit are employed.
  - d. No sooner than ten nor later than twenty days after posting the notice of intent to consider the petition, the board shall investigate the petition, determine the question of representation, and post notice of its determination in each school wherein the members of the negotiating unit are employed.
  - e. If the petition is not contested, the board shall recognize the petitioner as the representative organization of the negotiating unit, unless it finds in good faith that there is a reasonable doubt the representation exists.
2. If any organization has an interest in representing a group of teachers or a group of administrators and wishes to contest the claim of representation made in the petition under subsection 1, the contesting organization must file with the board of the school district a petition containing a written statement of contest together with substantiating evidence, within ten days from the date on which the board posted the notice of intent to consider the original petition.
3. If the board of a school district fails to make and post notice of its determination or if the board's determination has been contested, the board shall call an election to determine the question of representation not sooner than twenty nor later than thirty days after the posting of the notice of intent to consider the original petition.
4. If the board of a school district receives a petition that is signed by at least twenty-five percent of the members of the negotiating unit and which calls for an election to determine the question of representation, the board shall call the election.



5. The election must be conducted in the manner agreed to by the interested parties. If the interested parties cannot reach an agreement, the election must be conducted in the manner determined by the education factfinding commission under its rules.
6. Once a representative organization has been selected, its authority to represent the negotiating unit continues for at least one year from the date of the selection.

**15.1-16-12. Representative organization - Payroll deduction - Dues.** If an individual who is employed as a teacher, and who is a member of a representative organization as defined in this chapter, signs a petition requesting that dues for the representative organization be deducted from the individual's regular paycheck, the board of the school district shall comply with the petition. Nothing in this section may be interpreted to mean that the dues of a nonmember must be deducted in that manner.

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

1. The board of a school district or its representatives and the representative organization or its representatives shall, if requested by either entity, meet at reasonable times and negotiate in good faith regarding:
  - a. The terms and conditions of employment.
  - b. Employer-employee relations.
  - c. Formation of a contract, which may contain a provision for binding arbitration.
  - d. The interpretation of an existing contract.
2. The board of a school district and the representative organization, at the request of either party, shall execute a written contract incorporating any agreement reached.
3. Either the board of a school district or the representative organization may modify or terminate the contract on its annual anniversary date by giving notice of its desire to modify or terminate the contract to the other party not less than sixty days before the annual anniversary date.
4. Nothing in this section compels either the board of a school district or a representative organization to agree to a proposal or to make a concession.

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

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

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

1. If an impasse exists, the board of a school district and the representative organization may agree to seek mediation. The board and the representative organization shall jointly select a mediator and agree to a distribution of the mediation cost. If mediation fails or if mediation is not attempted, the board or representative organization may request that the education factfinding commission provide assistance.
2. If the education factfinding commission is asked to provide assistance under subsection 1 and if the commission determines that an impasse exists, the commission shall act as a factfinding commission or appoint a factfinder from a list of qualified individuals maintained by the commission. A factfinder appointed under this section has the powers designated by the commission. Upon completion of all duties, the factfinder shall make a recommendation to the commission.
3. The education factfinding commission shall:
  - a. Consider the facts, make its findings, and issue a recommendation; or
  - b. Consider the report and recommendation of its factfinder and, after any further investigation the commission elects to perform, make its findings and issue a recommendation.
4. Within forty days from the date the commission is asked to provide assistance, the commission shall deliver its findings and recommendations to the board of the school district and to the representative organization. No sooner than ten nor later than twenty days after its findings and recommendations are delivered to the board and the representative organization, the commission shall make its findings and recommendation public if the impasse is not resolved.
5. If facts are established or a recommendation made in accordance with factfinding procedures agreed to by the board of the school district and the representative organization and the impasse continues, the education factfinding commission may consider the findings and recommendations without instituting its own factfinding procedure and the commission may issue its own findings and recommendations based on the information available. No sooner than ten nor later than twenty days after these findings and recommendations are delivered to the board and the representative organization, the commission shall make its findings and recommendations public if the impasse is not resolved.

**15.1-16-16. Participation in a strike - Prohibition.** Teachers and administrators employed by school districts may not participate in a strike. The board of a school district may withhold some or all the wages otherwise due a teacher or an administrator who elects to participate in a strike in violation of this section.

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

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

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

1. Use at least ten days of sick leave each school year without a loss of compensation; and
2. Accumulate sick leave and carry over from year to year at least thirty days of accumulated unused sick leave.

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

1. The superintendent of public instruction shall develop contracts of employment and personnel policies applicable to each individual employed as a teacher at the school for the blind and the school for the deaf. The director of the division of juvenile services, with the approval of the director of the department of corrections and rehabilitation, shall develop contracts of employment and personnel policies applicable to each individual employed as a teacher at the North Dakota youth correctional center.
2. The contracts required by this section may include the assignment of duties, salaries, work hours, job titles, and a school calendar.
3. The personnel policies required by this section must include job descriptions and nonrenewal, discipline, and dismissal procedures. The policies must seek to harmonize the rights of teachers with laws applicable to other state employees. The superintendent of public instruction and the director of the division of juvenile services, with the approval of the director of the department of corrections and rehabilitation, shall work together in the development of the personnel policies.
4. Each individual employed as a teacher at the school for the blind, the school for the deaf, or the youth correctional center is entitled to receive a copy of a master agreement consisting of a policy manual and an individualized contract specifying the individual's job title, contracted hours, salary schedule, benefits, and other details applicable to the individual's employment.
5. For purposes of this section, "teacher" means a contracted state employee who:
  - a. Holds a teaching license or is approved to teach by the education standards and practices board;
  - b. Is employed primarily to provide classroom instruction or individualized instruction;
  - c. Has a work schedule set in accordance with the school calendar;
  - d. Is a guidance counselor, school librarian, itinerant outreach teacher, or a vocational and technological resource person required to meet teaching and licensure requirements; and
  - e. Is not a superintendent, assistant superintendent, principal, supervisor, substitute, or paraprofessional.

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

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

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

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

**15.1-17-04. Complaint against teacher - Notification.** If a complaint is filed against a teacher or against an individual for whom the teacher is administratively responsible, and the complaint is to be placed in the teacher's personnel file, the school principal, administrator, or school district superintendent shall inform the teacher of the complaint.

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

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

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

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

1. In order to teach kindergarten, an individual must:
  - a. Be licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board and have a kindergarten endorsement; or
  - b. Be licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board and demonstrate to the satisfaction of the education standards and practices board that the individual will obtain a kindergarten endorsement within two years from the date of the assignment to teach kindergarten.
2. In order to teach any grade from one through eight, an individual must:
  - a. Be licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board and have a major, a minor, or an endorsement in elementary education; or
  - b. Be licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board and demonstrate to the satisfaction of the education standards and practices board that the individual will obtain an endorsement in elementary education within two years from the date of the assignment to teach any grade from one through eight.
3. Notwithstanding subsection 2, an individual may teach any grade from five through eight if the individual:

- a. Is licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board and has a major or an endorsement in middle school education; or
  - b. Is licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board and demonstrates to the satisfaction of the education standards and practices board that the individual will obtain an endorsement in middle school education within two years from the date of assignment to teach any grade from five through eight.
4. Notwithstanding subsection 2, an individual may teach grade seven or eight if the individual is licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board and has a major or a minor in the assigned course area or field.
  5. Notwithstanding subsection 2, an individual may teach special education, foreign language, art, music, physical education, business education, and computer education at any grade level from kindergarten through eight, provided the individual is licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board and meets the requirements imposed by the superintendent of public instruction.
  6. An individual may obtain an endorsement by completing teaching requirements and the minimum number of credit hours in courses prescribed by the education standards and practices board.
  7. This section does not apply to an eminence-credentialed teacher.

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

1. In order to teach any grade nine through twelve, an individual must be licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board and have a major, a minor, or a minor equivalency endorsement issued by the board in the course area or field being taught by the individual.
2. The approval status of a high school is not impacted by the employment of an individual who has a teaching license issued by the education standards and practices board in the disciplines of trade, industrial, technical, or health under chapter 15-20.1 but has neither a major nor a minor in the assigned field.
3. A minor equivalency granted to an individual by the superintendent of public instruction under prior authority remains valid.
4. Subsection 1 does not apply to an eminence-credentialed teacher.

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

1. An individual assigned as a student teacher or employed as an eminence-credentialed teacher has the same legal authority and status as a licensed teacher employed by the school district. The authority extends to all aspects of student management and discipline, the handling of confidential student records, and to all legal authority granted to a licensed teacher in the state.
2. An individual assigned as a student teacher or employed as an eminence-credentialed teacher must be deemed a licensed teacher employed by the district with respect to acts performed by the individual at the direction of or with the consent of the district employees under whose supervision and control the individual performs duties, whether or not the

duties are performed entirely in the presence of district employees assigned to supervise the individual.

3. An individual assigned as a student teacher or employed as an eminence-credentialed teacher must be deemed an employee of the school district for purposes of liability insurance coverage under sections 32-12.1-05 and 39-01-08.
4. For purposes of this chapter, "eminence-credentialed teacher" means an individual who provides teaching services in accordance with subsection 21 of section 15.1-09-33.

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

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

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

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

**15.1-20-03. Compulsory attendance law - Enforcement.** Each teacher and administrator is charged with the enforcement of compulsory school attendance provisions. The compulsory school attendance provisions are applicable to any child who is offered school facilities by a school district, regardless of whether or not the child actually resides in the district. Each individual listed in this section shall investigate any alleged violation of the compulsory attendance provisions and shall obtain from the parent of any child not attending school in accordance with the requirements of this chapter the reason, if any, for the absence. In any school district not having a district superintendent, the county superintendent of schools must be notified of any allegation regarding the violation of compulsory attendance provisions and the county superintendent shall report the allegation to the state's attorney of the county. In all other districts, the school district superintendent or the principal of the child's school shall report to the state's attorney of the county the facts in connection with any alleged violation of the compulsory attendance provisions. The state's attorney may petition a court, pursuant to chapter 27-20, for a determination as to whether a child is educationally deprived.

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

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

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

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

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

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

**15.1-21-03. High school unit - Instructional time.**

1. Except as provided in subsection 2, each unit must consist of at least one hundred twenty hours of instruction per school calendar.
2. The following units must consist of at least one hundred fifty hours of instruction per school calendar: natural sciences, agriculture, business and office technology, marketing, diversified occupations, trade and industrial education, technology education, and health careers.
3. The hour requirements of this section are subject to reductions resulting from the holidays and nonstudent contact days provided for in section 15.1-06-04.

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

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

**15.1-21-05. Indian education curriculum.** The superintendent of public instruction may develop an Indian education curriculum to be implemented within the minimum curriculum requirements for elementary and secondary schools. The superintendent shall provide for continuing research and evaluation and for inservice training necessary to implement an Indian education curriculum.

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

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

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

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

1. Upon its own motion, the board of a school district may establish a free public kindergarten for the instruction during a school year of resident children below school age.
2. If the board receives a petition signed by qualified electors residing in the district equal in number to at least twenty percent of those who voted in the most recent annual school district election, the board must submit the question of establishing a kindergarten to the electorate at the next annual or special school district election. The margins of electoral approval provided in section 57-15-14 must be applied.



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

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

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

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

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

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

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

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

1. The statement must include:
  - a. The name and address of the child receiving home education;
  - b. The child's date of birth;
  - c. The child's grade level;
  - d. The name and address of the parent who will supervise the home education;
  - e. The qualifications of the parent who will supervise the home education;

- f. Any public school courses in which the child intends to participate and the school district offering the courses; and
  - g. Any extracurricular activities in which the child intends to participate and the school district or approved nonpublic school offering the activities.
2. The statement must be accompanied by a copy of the child's immunization record and proof of the child's identity as required by section 54-23.2-04.2.

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

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

**15.1-23-04. Home education - Required subjects - Instructional time.** A parent supervising home education shall include instruction in those subjects required by law to be taught to public school students. The instruction must have a duration of at least four hours each day for a minimum of one hundred seventy-five days each year.

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

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

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

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

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

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

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

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

1. If a child receiving home education takes the standardized achievement test used by the school district in which the child resides, the school district is responsible for the cost of the test and for the cost of administering the test. The school district shall ensure that the test is administered by an individual who is employed by the district and who is licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board.
2.
  - a. If the child takes a nationally normed standardized achievement test not used by the school district in which the child resides, the child's parent is responsible for the cost of the test.
  - b. The cost of administering a test under this subsection is the responsibility of the child's parent if the test is administered by an individual who is selected by the parent. An individual selected by the child's parent to administer a test under this subsection must be licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board.
  - c. The cost of administering a test under this subsection is the responsibility of the school district if, at the request of the child's parent, the school district administers the test. The school district shall ensure that the test is administered by an individual who is employed by the district and who is licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board.

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

1. A parent supervising home education shall file the results of the child's standardized achievement test with the superintendent of the district in which the child resides or with the county superintendent if the district does not employ a superintendent.
2. If the child's basic composite score on a standardized achievement test is less than the thirtieth percentile nationally, a multidisciplinary assessment team shall assess the child for a potential learning problem under rules adopted by the superintendent of public instruction.
3. If the multidisciplinary assessment team determines that the child is not disabled and the child's parent wishes to continue home education, the parent, with the advice and consent of an individual who is licensed to teach by the education standards and practices board or

approved to teach by the education standards and practices board, shall prepare a remediation plan to address the child's academic deficiencies and file the plan with the superintendent of the school district or with the county superintendent if the district does not employ a superintendent. The parent is responsible for any costs associated with the development of the remediation plan. If the parent fails to file a remediation plan, the parent is deemed to be in violation of compulsory school attendance provisions and may no longer supervise the home education of the child.

**15.1-23-12. Home education - Remediation plan.** The superintendent of the school district shall use the remediation plan required by section 15.1-23-11 as the basis for determining reasonable academic progress. The remediation plan must remain in effect until such time as the child achieves on a standardized achievement test a basic composite score at or above the thirtieth percentile or a score, which when compared to the previous year's test score, demonstrates one year of academic progress. At the option of the parent, the test may be one required by section 15.1-23-09 or one administered in a higher grade level. The child's parent, with the advice and consent of an individual who is licensed to teach by the education standards and practices board or who is approved to teach by the education standards and practices board, may amend the remediation plan from time to time in order to accommodate the child's academic needs. If after a remediation plan is no longer in effect the child fails to demonstrate reasonable academic progress on a subsequent test required by this section, a remediation plan must again be developed and implemented.

**15.1-23-13. Home education - Disabilities - Services plan.**

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

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

1. The child has been determined to be autistic by a licensed psychologist;
2. The child's parent is qualified to supervise home education under this chapter; and
3. The child's parent files with the superintendent of the child's school district of residence:
  - a. A notice that the child will receive home education;

- b. A copy of the child's diagnosis of autism prepared and attested to by a licensed psychologist; and
- c. A services plan developed and followed by the child's school district of residence and the child's parent; or, after providing written notice to the superintendent of the child's school district of residence, a substitute services plan, developed and followed, according to section 15.1-23-15, by a services plan team selected by and compensated by the child's parent.

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

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

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

1. A child receiving home education may participate in extracurricular activities either:
  - a. Under the auspices of the child's school district of residence; or
  - b. Under the auspices of an approved nonpublic school, if permitted by the administrator of the school.
2. For purposes of this section, a child participating under the auspices of the child's school district of residence is subject to the same standards for participation in extracurricular activities as those required of full-time students enrolled in the district.
3. For purposes of this section, a child participating under the auspices of an approved nonpublic school is subject to the same standards for participation in extracurricular activities as those required of full-time students enrolled in the school.
4. Once a child's parent has selected the public school district or the approved nonpublic school in which the child will participate for purposes of extracurricular activities and has provided notification of the selection through the statement required by section 15.1-23-02, the child is subject to the transfer rules as provided in the constitution and bylaws of the North Dakota high school activities association.

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

1. A child's school district of residence, an approved nonpublic high school, or the North Dakota division of independent study may issue a high school diploma to a child who, through home education, has met the issuing entity's requirements for high school graduation provided the child's parent submits to the issuing entity a description of the course material covered in each high school subject, a description of the course objectives and how the objectives were met, and a transcript of the child's performance in grades nine through twelve.
2. In the alternative, a high school diploma may be issued by the child's school district of residence, an approved nonpublic high school, or the North Dakota division of independent study provided the child, through home education, has completed at least seventeen units

of high school coursework from the minimum required curriculum offerings established by law for public and nonpublic schools and the child's parent or legal guardian submits to the issuing entity a description of the course material covered in each high school subject, a description of the course objectives and how the objectives were met, and a transcript of the child's performance in grades nine through twelve. The issuing entity may indicate on a diploma issued under this subsection that the child was provided with home education.

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

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

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

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

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

1. The superintendent of public instruction shall determine the total state payments made to each school district during the previous fiscal year.
2. The superintendent of public instruction shall pay each district ten percent of the amount determined under subsection 1, within the limits of legislative appropriation, on or before July fifteenth, August first, September first, and October first of each year.
3. The superintendent of public instruction shall determine the amount that, in addition to the payments already made, is necessary to constitute the remainder of the amount due each district for the current school year.
4. On or before November first, the superintendent of public instruction shall pay to each district, within the limits of legislative appropriation, an amount that, in addition to the above payments, constitutes fifty percent of the sum due under this chapter.
5. On or before the first day of December, January, February, March, and April, payments equal to twenty percent of the total remaining payments must be made to each district.
6. If funds appropriated for distribution to districts as per student and transportation aid become available after April first, the superintendent of public instruction shall distribute the newly available payments on or before June thirtieth.

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

1. The superintendent of public instruction may not forward state aid payments to a school district beyond the October payment unless the district has filed the following with the superintendent:

- a. An annual average daily membership report.
  - b. An annual school district financial report.
  - c. The September tenth fall enrollment report.
  - d. The personnel report forms for licensed and nonlicensed employees.
2. On or before December fifteenth, each school district shall file with the superintendent of public instruction the taxable valuation and mill levy certifications. If a district fails to file the taxable valuation and mill levy certifications by the required date, the superintendent of public instruction may not forward to the district any state aid payments to which the district is entitled, until the taxable valuation and mill levy certifications are filed.

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

1. The superintendent of public instruction shall determine the educational cost per student.
2. In determining the educational cost per student, the superintendent may not use:
  - a. Capital outlay for buildings.
  - b. Capital outlay for sites.
  - c. Capital outlay for debt service.
  - d. Expenditures for school activities.
  - e. Expenditures for school lunch programs.
  - f. Expenditures for transportation costs, including schoolbuses.

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

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

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

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

1. Each district having under seventy-five students in average daily membership in grades nine through twelve is entitled to receive the amount of money that results from multiplying the factor 1.625 adjusted by seventy-five percent of the difference between 1.625 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, by the number of students in grades

nine through twelve who are registered in that district, times the per student payment provided for in section 15.1-27-04.

2. Each district having at least seventy-five but fewer than one hundred fifty students in average daily membership in grades nine through twelve is entitled to receive the amount of money that results from multiplying the factor 1.335 adjusted by seventy-five percent of the difference between 1.335 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, by the number of students in grades nine through twelve who are registered in that district, times the per student payment provided for in section 15.1-27-04.
3. Each district having at least one hundred fifty but fewer than five hundred fifty students in average daily membership in grades nine through twelve is entitled to receive the amount of money that results from multiplying the factor 1.24 adjusted by seventy-five percent of the difference between 1.24 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, by the number of students in grades nine through twelve who are registered in that district, times the per student payment provided for in section 15.1-27-04.
4. Each district having at least five hundred fifty students in average daily membership in grades nine through twelve is entitled to receive the amount of money that results from multiplying the factor 1.14 adjusted by seventy-five percent of the difference between 1.14 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, by the number of students in grades nine through twelve who are registered in that district, times the per student payment provided for in section 15.1-27-04.
5. Each district having an approved alternative high school education program is entitled to receive the amount of money that results from multiplying the factor in:
  - a. Subsection 1 by the number of students registered in the alternative education program, times the per student payment provided for in section 15.1-27-04, if fewer than seventy-five students in average daily membership are enrolled in the alternative education program.
  - b. Subsection 2 by the number of students registered in the alternative education program, times the per student payment provided for in section 15.1-27-04, if at least seventy-five but fewer than one hundred fifty students in average daily membership are enrolled in the alternative education program.
  - c. Subsection 3 by the number of students registered in the alternative education program, times the per student payment provided for in section 15.1-27-04, if at least one hundred fifty but fewer than five hundred fifty students in average daily membership are enrolled in the alternative education program.
  - d. Subsection 4 by the number of students registered in the alternative education program, times the per student payment provided for in section 15.1-27-04, if at least five hundred fifty students in average daily membership are enrolled in the alternative education program.
6. In order to be eligible for enumeration under this section, a student:
  - a. Must have completed the work of the eighth grade;
  - b. Must not have completed the work of the twelfth grade; and
  - c. Must be a resident of this state or a nonresident attending a school in this state under the auspices of a foreign student exchange program.



**15.1-27-07. Per student payments - Weighting factors - Elementary school students.** The superintendent of public instruction shall make payments each year, as provided for in this section, to each school district operating an elementary school and to each school district contracting to educate elementary students in a federal school, subject to adjustment as provided in section 15.1-27-21.

1. a. Each district having only a one-room rural school is entitled to receive the amount of money that results from multiplying the factor 1.28 adjusted by seventy-five percent of the difference between 1.28 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, by the number of students in average daily membership in grades one through eight in that school, times the per student payment provided for in section 15.1-27-04. The payment level provided for in this subdivision is applicable only to the first sixteen students.
  - b. If the one-room rural school has more than sixteen students in average daily membership in grades one through eight, the district in which the school is located is entitled to receive ninety percent of the per student payment provided for in section 15.1-27-04 for each additional student. The district is not entitled to any payment for more than twenty students in average daily membership.
  - c. If a one-room rural school is located in a district having another elementary school, the weighting factor for the students in grades one through six must be based on the average daily membership in the district in grades one through six, as provided in this section.
  - d. If a one-room rural school is located in a school district with another school that has students in grade seven or eight, the weighting factor for the students in grade seven or eight must be the same as that provided for in subsection 5.
2. Except as provided in subsection 1, each school district having fewer than one hundred students in average daily membership in grades one through six is entitled to receive the amount of money that results from multiplying the factor 1.09 adjusted by seventy-five percent of the difference between 1.09 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, by the number of students in average daily membership in grades one through six in the district, times the per student payment provided for in section 15.1-27-04. The payment provided for in this subsection is applicable only to the first twenty-five students in average daily membership per classroom or per teacher.
  3. Each school district having at least one hundred students but fewer than one thousand students in average daily membership in grades one through six is entitled to receive the amount of money that results from multiplying the factor .905 adjusted by seventy-five percent of the difference between .905 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, by the number of students in average daily membership in grades one through six in the district, times the per student payment provided for in section 15.1-27-04. The payment provided for in this subsection is applicable only to the first thirty students in average daily membership per classroom or per teacher.
  4. Each school district having at least one thousand students in average daily membership in grades one through six is entitled to receive the amount of money that results from multiplying the factor .95 adjusted by seventy-five percent of the difference between .95 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, by the number of students in average daily membership in grades one through six in the district, times the per student payment provided for in section 15.1-27-04. The payment provided for in this

subsection is applicable only to the first thirty students in average daily membership per classroom or per teacher.

5. Each school district having students in grades seven and eight is entitled to receive the amount of money that results from multiplying the factor 1.01 adjusted by seventy-five percent of the difference between 1.01 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, by the number of students in average daily membership in grades seven and eight in the district, times the per student payment provided for in section 15.1-27-04. The payment provided for in this subsection is applicable only to the first thirty students in average daily membership per classroom or per teacher. The payments provided for in this subsection are not available for students who attend a one-room rural school if that school is the only one in the district that offers educational services to students in grades seven and eight.
6. Each school district having a special education program approved by the director of special education is entitled to receive, for each student who is enrolled in the program and who is at least three years of age but less than the compulsory age for school attendance, the amount of money that results from multiplying the factor 1.01 adjusted by seventy-five percent of the difference between 1.01 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, by the number of special education students in average daily membership in the program who are at least three years of age but less than the compulsory age for school attendance, times the per student payment provided for in section 15.1-27-04.
7.
  - a. Each school district operating a kindergarten as provided for in section 15.1-22-02 is entitled to receive the amount of money that results from multiplying the factor .50 adjusted by seventy-five percent of the difference between .50 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, by the number of kindergarten students in average daily membership in the district, times the per student payment provided for in section 15.1-27-04. The payment provided for in this subsection is applicable only to the first twenty-five students in average daily membership per classroom or per teacher.
  - b. In order to receive the full per student payment available under this section, a district must operate a kindergarten program that provides the equivalent of ninety full days of classroom instruction during a twelve-month period. A district is entitled to a prorated payment under this section if it operates a kindergarten program of shorter duration.
8. Each school district that educates students who are also enrolled in nonpublic schools is entitled to receive proportionate payments under this section.
9. Each school district is entitled to receive as much in total payments for elementary students as it would have received if it had the highest number of students in the next lower category.
10. A school district is not entitled to any payments provided for by this chapter unless each teacher employed by the district:
  - a. Holds a teaching license issued by the education standards and practices board; or
  - b. Has been approved to teach by the education standards and practices board.

**15.1-27-08. Per student payments - Unaccredited high schools.** If a high school becomes unaccredited, the per student payment to which the school district is entitled during the first year in

which the high school is unaccredited is the amount established in section 15.1-27-04. The school district is not entitled to the amount that results from applying the weighting factors provided in section 15.1-27-06. In each successive year, the per student payment to which the school district is entitled for each student in the unaccredited high school must be reduced by an additional two hundred dollars. If a school regains its accreditation, the school is entitled to the per student payments provided for accredited schools for the entire school year in which the school becomes accredited.

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

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

1. Except as provided in subsection 2, each biennium the superintendent of public instruction shall distribute moneys appropriated by the legislative assembly for per student special education payments to each school district in the state on the basis of students in average daily membership. The superintendent of public instruction shall forward the payments, as calculated under section 15.1-27-05, to eligible school districts in the same manner and at the same time that the superintendent distributes per student and transportation aid payments. For purposes of this section, "special education" means the provision of special services to students who have special needs, including students who are gifted and talented. Expenditures under this section may not conflict with nonsupplanting and maintenance of effort provisions under the Individuals With Disabilities Education Act, 20 United States Code 1400 et seq.
2. Upon the written request of a school district, the superintendent of public instruction may forward all or a portion of the moneys to which the school district is entitled under this section directly to the special education unit of which the school district is a member.
3. The superintendent of public instruction may withhold state special education funds due a school district if, in response to a complaint, the superintendent finds that the district is not providing a free appropriate public education to a student as required by law. Any withholding under this subsection may not exceed an amount equal to the cost of meeting the affected student's needs.

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

1. Determine the difference between the latest available statewide average taxable valuation per student and the average taxable valuation per student in the high school district;
2. Multiply the result determined under subsection 1 by the number of students in average daily membership in grades one through twelve in the high school district;
3. Multiply the result determined under subsection 2 by the number of general fund mills levied by the district in excess of one hundred fifty, provided that any mills levied by the district which are in excess of two hundred ten may not be used in this calculation; and

4. Multiply the result determined under subsection 3 by thirty percent. The result is the supplemental payment to which a high school district is entitled, in addition to any other amount provided under chapter 15.1-27.

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

1. In addition to any other payments provided for by this chapter, each school district is entitled to receive four hundred dollars for each student who has been assessed by the student's school district and determined to have negligible or very limited English language skills as evidenced by a classification of level I or II using the Woodcock-Munoz language survey.
2. In order to receive the full payment provided for in this section, a school district must complete the student assessment required by subsection 1 and forward the results to the superintendent of public instruction on or before October twenty-fifth of each school year. The superintendent shall distribute the payments no later than May thirtieth of each school year. The superintendent shall prorate payments under this section for any students registering in the school district after October first or departing from the school district prior to the completion of the school year.

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

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

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

1. If an elementary school has fewer than fifty students and fifteen percent or more of its students would have to travel beyond a fifteen-mile [24.15-kilometer] radius from their residences in order to attend another school, the weighting factor provided under section 15.1-27-07 must be increased by twenty percent for the first fifteen students. If the school has fewer than fifteen students, the payment received must be for fifteen students.
2. If a high school has fewer than thirty-five students and fifteen percent or more of its students would have to travel beyond a twenty-mile [32.2-kilometer] radius from their residences in order to attend another school, the weighting factor provided under section 15.1-27-06 must be increased by twenty percent for the first twenty students. If the school has fewer than twenty students, the payment received must be for twenty students.

**15.1-27-16. Per student payments - Cooperating districts.** If, on or after July 1, 1997, any school district receiving payments under this chapter cooperates with another school district for the joint provision of educational services under a plan approved by the superintendent of public instruction, each cooperating district is entitled to receive, for a period of four years, at least the same per student payment for each high school and elementary student as the district received prior to initiation of the cooperative plan.

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

1. If any school district receiving per student payments calculated under section 15.1-27-06 reorganized with another school district under chapter 15.1-12 before August 1, 1997, the school district resulting from the reorganization is entitled to receive the same per student payments for each high school student as each separate school district received for each high school student prior to the reorganization, for a period of four years.

2. If any school district receiving per student payments calculated under this chapter reorganizes with another school district under chapter 15.1-12 after July 31, 1997, the school district resulting from the reorganization is entitled to receive the same per student payments for each high school and elementary student as each separate school district received for each high school and elementary student prior to the reorganization, for a period of four years.
3. The weighting factor for each district will be adjusted proportionately over a period of two years, following the period of time provided in subsection 1 or 2, until the adjusted weighting factor equals the weighting factor for the combined enrollment resulting from the reorganization.
4. Notwithstanding the provisions of any other law, no school district may receive less in per student payments for the first year of its reorganization than the total amount that the districts participating in the reorganization received in per student payments for the school year immediately preceding the reorganization. If less than a whole school district participated in a reorganization, the superintendent of public instruction shall prorate the payments to which the newly reorganized district is entitled under this subsection.

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

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

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

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

the amount made available under this subsection may be used to support remedial summer school programs at the elementary level.

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

1. Upon the completion of student registration and in no event later than September tenth of each year, the business manager of a school district claiming payments from state funds under the provisions of this chapter shall file a claim in the manner prescribed by the superintendent of public instruction. The business manager must provide the number of registered high school and elementary school students for whom payments are claimed and any other information requested by the superintendent of public instruction.
2. The superintendent of public instruction shall compute the per student payments on the basis of the previous year's average daily membership less the number of students attending school during the current school year in another district under the provisions of open enrollment or the current year's fall enrollment, whichever provides the greater total payment. The superintendent shall make adjustments in the subsequent year according to a comparison between the average daily membership for the year for which the adjusted payment is being made and the year preceding the year for which the adjusted payment is being made, whichever is greater, for grade levels that existed in both years. The greater of the two preceding years' average daily membership must be used in computing any adjustment in a district's per student aid payments.
3. School districts educating children of agricultural migratory workers and school districts offering high school summer courses during the months of June, July, and August are not restricted to payments for a one hundred eighty-day school term.
4. Upon termination of the school year and in no event later than July fifteenth, the business manager of each school district that has received payments from state funds under the provisions of this chapter shall file with the county superintendent of schools a verified statement of the name, residence, and membership of each student and the units of high school work taken by each student enrolled during the previous school year. The county superintendent shall investigate the validity of the statement and shall determine the residence and other qualifications of each student named in the statement. The county superintendent of schools shall attest to the statement. On or before September first of each year, the county superintendent shall certify to the superintendent of public instruction the number of students enrolled in each district in the county for the previous school year upon which any adjustment may be based. If the county superintendent disallows any statement in whole or in part, the county superintendent shall provide notice of the disallowance, together with the names of the affected students, to the superintendent of public instruction and to the school district filing the statement.
5. A district may appeal the determination of a county superintendent to the superintendent of public instruction on or before September fifteenth of the year in which the determination is made. The superintendent of public instruction may modify the determination of the county superintendent if the evidence submitted by the district justifies a modification. The judgment of the superintendent of public instruction is final.

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

1. If the taxable valuation of property is diminished because real property is reclassified as personal property as a result of legislative or judicial action, the state payment to an affected school district must be based on the diminished valuation in the year in which it is paid to the district.
2. If the state payment to a school district is based upon a determination of property valuation that is later diminished by legislative or judicial action, the district has one year from the date of the final determination or adjudication of the property tax base adjustment within

which to apply to the superintendent of public instruction for a supplemental state payment in an amount equaling the difference between the amount that the district received and the amount that the district would have received if the correct property tax base had been used.

3. A school district is entitled to the supplemental state payment provided by this section even if the payment is made in a succeeding biennium.
4. The superintendent of public instruction shall pay the amount due under this section within the limits of legislative appropriations for per student payments and transportation aid.

**15.1-27-22. Insufficient moneys - Fractional payments.** If moneys in the state general fund are insufficient to make all payments to school districts, the superintendent of public instruction shall prorate the payments on a fractional basis. As additional moneys come into the fund, payments may be made until the school districts receive all moneys to which they are entitled. If an appropriation made by the legislative assembly is inadequate to meet all claims against the appropriation and is therefore the cause of the insufficiency, the prorated fractional payments made under this section constitute payment in full.

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

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

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

1. Any money paid to the state by the secretary of the treasury of the United States under the provisions of an Act of Congress entitled "An Act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain" [Pub. L. 66-146; 41 Stat. 437; 30 U.S.C. 181 et seq.] must be credited to the state general fund and must be distributed only pursuant to the terms of this section.
2. Within three months following the calendar quarters ending in March, June, September, and December, the state auditor shall certify to the state treasurer the amount of money the state received during the preceding calendar quarter for royalties under the Act of Congress cited in subsection 1.
3. The state treasurer shall allocate the percentage of the total moneys received as required by this section among the counties in which the minerals were produced based on the proportion each county's mineral royalty revenue bears to the total mineral royalty revenue received by the state for that calendar quarter. The state treasurer shall pay the amount calculated to each county.
4. The counties may use any money received under this section only for the planning, construction, and maintenance of public facilities and the provision of public services.

5. The percentage of money received by the state under the Act of Congress cited in subsection 1 which must be allocated and paid to the counties under this section is ten percent for collections in 2000, twenty percent for collections in 2001, thirty percent for collections in 2002, forty percent for collections in 2003, and fifty percent for collections in 2004 and thereafter.
6. Any remaining money received by the state under the Act of Congress cited in subsection 1 must be distributed to school districts as provided for in this chapter. Any moneys distributed under this subsection are deemed the first moneys withdrawn or expended from the general fund for the purpose of state aid to school districts.
7. The funds needed to make the distribution to counties, as provided for in this section, are hereby appropriated on a continuing basis.

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

1. Each school district providing transportation to students in contract schoolbuses or in district-owned and operated schoolbuses, and each school district with students riding commercial buses to and from school is entitled to receive the following amounts:
  - a. Twenty-five cents per mile [1.61 kilometers] for each schoolbus and school vehicle having a capacity of nine or fewer students and transporting students who reside outside the incorporated limits of the city in which the students' school is located.
  - b. Sixty-seven cents per mile [1.61 kilometers] for each schoolbus and school vehicle having a capacity of ten or more students and transporting students who reside outside the incorporated limits of the city in which the students' school is located.
  - c. Twenty-five cents per mile [1.61 kilometers] for each schoolbus and school vehicle transporting students who reside within the incorporated limits of a city in which the students' school is located.
  - d. Twenty cents for each one-way trip by a student who rides a schoolbus or a commercial bus to or from school and who resides within the incorporated limits of the city in which the student's school is located.
2. A school district that is entitled to payments for a schoolbus having a capacity of ten or more students is also entitled to receive forty cents per day for each public school student who resides outside the city limits and who is transported in such a bus.
3. Only a school district abiding by the laws of this state with respect to schoolbus standards and schoolbus driver qualifications, as determined by the superintendent of public instruction, may receive payments under this section.
4. For each student transported by family transportation in accordance with section 15.1-30-02, a school district is entitled to receive forty cents per day for each mile [1.61 kilometers] over two miles [3.22 kilometers] measured from the front door of the school attended by the student to the front door of the student's residence, according to the most convenient route of public travel.

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

1. Each school district is entitled to receive the following for transporting students enrolled in special education programs:
  - a. If the district transports nine or fewer students per vehicle, the amount provided in section 15.1-27-26 for the transportation of nine or fewer students per vehicle.



- b. If the district transports ten or more students per vehicle, the amount provided in section 15.1-27-26 for the transportation of students in a vehicle having a capacity of ten or more.
2. Except as provided in subsection 3, a school district entitled to payments under this section is entitled to transportation aid for all miles [kilometers] traveled and for each student transported, even if a student lives within the incorporated limits of the city in which the student's school is located.
3. A school district may not receive more than one per student payment for transportation of a student regardless of the frequency with which the student is transported during any one day.
4. Notwithstanding any other law, the superintendent of public instruction shall make the payments due a school district under this section directly to a multidistrict special education unit if requested to do so by the school district.

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

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

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

1. On or before July fifteenth of each year, the business manager of a school district shall certify to the county superintendent of schools the following information regarding the buses that transported students residing outside the incorporated limits of the city in which their school was located:
  - a. The number of buses operated on a contract basis or owned and operated by the district;
  - b. The manufacturer's listed passenger capacity of each bus; and
  - c. The daily mileage that each bus traveled in transporting students.
2. On or before July fifteenth of each year, the business manager of a school district shall certify to the county superintendent of schools the following information regarding the schoolbuses or commercial buses that transported students residing within the incorporated limits of the city in which their school was located:
  - a. A city plat indicating the location of each school building;
  - b. The route traveled by each bus;
  - c. The manufacturer's listed passenger capacity of each bus; and

- d. The number of one-way bus trips taken during the school year by students residing within the city limits.
3. On or before July fifteenth of each year, the business manager of each school district shall certify to the county superintendent of schools the amount of transportation payments claimed and any other information required by the superintendent of public instruction.
4. On or before September first of each year, the county superintendent of schools shall:
  - a. Certify to the superintendent of public instruction all claims for transportation payments submitted by each school district in the county; and
  - b. Notify a school district of any claims for transportation payments that have been disallowed.
5. A district may appeal the decision of a county superintendent under subsection 4 to the superintendent of public instruction on or before September fifteenth of the year in which the determination is made. The superintendent of public instruction may modify the determination of the county superintendent. The judgment of the superintendent of public instruction is final.
6. For purposes of this section, daily mileage means twice the distance computed to the nearest tenth of a mile [160.93 meters] traveled in a single trip by each bus over its scheduled route.

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

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

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

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

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

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

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

1. Notwithstanding any other law, a school district operating on July 1, 1999, may become a nonoperating district, provided:
  - a. The board of the district terminates the operation of all public schools in the district;
  - b. The board provides for the education in other school districts of all kindergarten, elementary, and secondary school students residing in the district; and
  - c. The board pays to each school district educating its students the full per student cost of education in the receiving district.
2. The board of a nonoperating school district shall continue to employ, on a full-time or a part-time basis, one person qualified to manage the finances of the district.
3. The board of a nonoperating school district is governed by all laws applicable to the board of an operating school district.
4. In lieu of all other state payments, a nonoperating school district under this section is entitled to receive an amount equal to the per student payment determined under section 15.1-27-04 and multiplied by the number of students ages six through seventeen who reside in the district, as established by the latest available school district census, less the product of thirty-two mills times the latest available net assessed and equalized valuation of property of the school district.
5. A school district may be nonoperational for no more than three school years.
6. At or before the conclusion of the three-year period, the nonoperating school district must become, through reorganization or dissolution, part of one or more operating school districts.
7. A school district that has become a nonoperating district and has accepted state payments, as provided for by this section, may not revert to an independent operating district.

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

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

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

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

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

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

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

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

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

1. Students may attend a school in a bordering state in accordance with section 15.1-29-02 under the following circumstances:
  - a. A student who lives within forty miles [64.37 kilometers] of another state or in a county bordering on another state may, with the approval of the school board, attend a public school in a bordering state.
  - b. A student who has attended a school district in a bordering state since, and including, the 1990-91 school year must be permitted to continue attending school in the district in the bordering state.
  - c. A student whose sibling attended an out-of-state school during or before the 1990-91 school year must be permitted to attend school in the district the sibling attended in the bordering state.

2. If the school board of the district in which the student resides denies a request for a student's attendance in and payment of tuition to another state, the student's parent may appeal the decision to the three-member committee referenced in section 15.1-29-06.
  - a. If the three-member committee determines that the student meets the terms of subdivision b or c of subsection 1, the student may attend school in the bordering state and the board of the student's school district of residence shall pay the tuition.
  - b. If the three-member committee determines the student falls within the terms of subdivision a of subsection 1, then the three-member committee shall make its decision using the criteria specified in section 15.1-29-06.
  - c. If the student is a kindergarten student, the three-member committee shall apply the same criteria as that specified for elementary students in section 15.1-29-06, except that subsection 2 of section 15.1-29-06 does not apply to an appeal for out-of-state attendance and payment of tuition. Notwithstanding the provisions of this section, if a student's school district of residence does not provide for the education of kindergarten students, the district may not pay tuition for a kindergarten student to attend school in a bordering state.
  - d. Any decision by the three-member committee regarding the payment of tuition for high school, elementary, or kindergarten students may be appealed by the school board or by the student's parent to the state board of public school education. A decision by the state board is final.
3.
  - a. The superintendent of public instruction shall forward all per student and transportation aid payments for a student attending an out-of-state school to the student's school district of residence.
  - b. The student's district of residence may reduce any tuition payment it must make to an out-of-state school by an amount commensurate with the tuition costs the district would be entitled to receive as compensation for a student from the out-of-state district enrolled in its school.
  - c. Transportation payments for a student attending school in a bordering state must be determined as provided in section 15.1-27-27.
4. Nothing in this section requires that a school district of residence provide student transportation or payments in lieu of transportation for students attending out-of-state schools.

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

1. The superintendent of public instruction shall pursue a reciprocal contract with the education agency of each bordering state. The contract must address the cost of educating students in the public schools of the bordering state.
2. A school district may comply with the terms of the superintendent's reciprocal contract or, upon providing notice to the superintendent of public instruction, may contract with a school district in a bordering state for the education of students. A contract between school districts supersedes the terms of the superintendent's reciprocal contract. A contract between school districts must provide for the payment of tuition at an agreed-upon amount. The amount of tuition payable per student may not exceed the amount set by the superintendent's reciprocal contract nor may it be less than the per student payment plus tuition apportionment in the North Dakota school district.
3. For purposes of per student payments and tuition apportionment payments, a student who attends school in a bordering state under a contract provided for by this section is deemed

to be in attendance in the student's school district of residence. The student's school district of residence is liable to the school district of the bordering state for payments as provided in the contract.

4. If the education agency of a bordering state is not authorized to or refuses to enter into a reciprocal contract with the superintendent of public instruction, a school district in this state may enter into its own contract with a school district in a bordering state for the education of students. A school district in this state may not agree to accept students from a bordering state unless the tuition payable equals or exceeds the per student payment plus the tuition apportionment payment that the district would have received from this state for a student in the same grade if its student had been attending school in the bordering state.

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

1. After taking into account the best interests of all affected parties, the board of a school district may elect to send its students to another school district. In this instance, the board may pay tuition for the students. The board may arrange, and when petitioned to do so by qualified electors of the district equal in number to at least a majority of those who voted in the most recent annual school district election shall arrange, with other boards to send students to the other districts and to pay for their tuition and transportation.
2. If a district does not provide educational services to an entire grade level, the students in that grade level may attend a public school of their choice outside their district of residence without going through the procedures outlined in section 15.1-29-05. The school district of residence shall pay tuition to the admitting district. For purposes of determining whether educational services are provided to an entire grade level, districts cooperating with each other in the joint provision of educational services under a plan approved by the superintendent of public instruction are considered to be a single district.

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

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

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

1. a. Within fifteen days after receipt of an appeal filed under section 15.1-29-05, the county superintendent of schools shall convene a three-member committee consisting of the county superintendent, the state's attorney, and one member appointed by the board of county commissioners for a term of three years. The committee shall consult with the boards of the affected districts and with the student's parent. The committee shall schedule a hearing, giving due notice to each affected board and to the student's parent. The committee shall conduct the hearing in a manner that allows all parties to present arguments and responses. The committee shall base its decision regarding the payment of tuition on the grade in which the student is enrolled.

- b. If the student is or during the following school year will be enrolled in any grade from nine through twelve and the committee finds that the attendance of the student is necessitated by shorter distances, previous attendance in another high school, inadequacy of curriculum considering the student's educational needs, or extreme hardship for the student or the student's family, the committee shall approve the application and the payment of tuition by the student's school district of residence, thereby obligating the district of residence to pay the tuition. The committee's directive regarding the payment of tuition may be for any fixed number of school years, up to the completion of the student's high school education, unless open enrollment is an available option. The decision of the committee may be appealed to the state board of public school education. A decision by the state board is final.
  - c. If the student is or during the following school year will be enrolled in any grade from one through eight and the committee finds that the attendance of the student is necessitated by shorter distances or extreme hardship for the student or the student's family, the committee shall approve the application and the payment of tuition by the student's district of residence, thereby obligating the district of residence to pay the tuition. The committee's directive regarding the payment of tuition is limited to one school year. The student's parent may make subsequent applications for the payment of tuition. The decision of the committee is final and is not subject to appeal.
2. If a student's school district of residence consists of land situated in more than one county, the three-member committee established under subsection 1 must consist of the county superintendent of schools and the state's attorney from the county in which the greatest portion of the school district's land is situated, and an individual appointed for a term of three years by the board of county commissioners representing the county in which the greatest portion of the school district's land is situated.
  3. If the student's school district of residence does not comply with the decision requiring that tuition charges be paid, the board of the admitting district shall notify the superintendent of public instruction. Upon verifying that tuition payments are due the admitting district and are unpaid, the superintendent of public instruction shall withhold all state payments to the student's school district of residence until any tuition due has been fully paid.
  4. A school district of residence may provide transportation to a student for whom tuition is paid under this section. If a school district of residence does not provide transportation to the student, it may be provided by the admitting district and the admitting district is then entitled to state payments for the transportation of the student.

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

1. If the board of a student's school district of residence refuses to pay the tuition for the student to attend school in another district and if the committee established under section 15.1-29-06 denies the petition on appeal, the student's parent may pay the tuition.
2. If the parent chooses to pay the tuition, the parent shall:
  - a. Submit at least fifty percent of the total amount due on the day of enrollment; and
  - b. Provide the board of the admitting district with a written contract agreeing to pay any remaining balance on or before December thirty-first.

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

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

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

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

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

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

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

1. Except as provided in section 15.1-29-13, a school district sending a student to another district for purposes of education shall pay the full cost of education incurred by the admitting district.
2.
  - a. The admitting district shall determine the cost of education per student for its kindergarten, elementary, and high school students on the basis of its average daily membership and those expenditures permitted in determining the cost of education per student in section 15.1-27-03.
  - b. To the cost of education per student, the admitting district shall add the state average capital outlay per student. The state average capital outlay per student is determined by dividing the total of all school districts' annual expenditures for sinking and interest funds, tax receipts to the building funds, and general fund expenditures for capital outlay by the average daily membership of the state.
  - c. The admitting district shall subtract the following from the amount arrived at under subdivision b:
    - (1) The weighted per student payment received by the admitting district, less the average amount per North Dakota resident student enrolled in the school district realized from the deductions applied under section 15.1-27-06; and
    - (2) Any credit for taxes paid to the admitting district by the student's parent.
  - d. The amount remaining is the full cost of education incurred by the admitting district and the tuition amount payable for the individual student.
3. If the student's school district of residence and the student's parent are both paying tuition, the credit allowed under subdivision c of subsection 2 for taxes paid to the admitting district by the student's parent must be proportionately credited to the student's district of residence and the student's parent.



4. This chapter does not affect the right of a school board to charge and collect tuition from students who are not residents of this state, in accordance with section 15.1-29-02.

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

1.
  - a. Except as provided in this subsection, the board of a school district that admits a nonresident student shall charge and collect tuition for the student. Either the student's district of residence shall pay the tuition to the admitting district in accordance with section 15.1-29-12 or the student's parent shall pay the tuition to the admitting district in accordance with section 15.1-29-07.
  - b. A board may charge tuition for nonresident students enrolled in an approved alternative education program.
  - c. Except as otherwise provided, if a school district fails to charge and collect tuition for a nonresident student, the districts shall forfeit any per student payment and transportation aid otherwise payable for the nonresident student.
2.
  - a. The board of a school district may admit a nonresident student from another district in this state offering the same grade level as that in which the student is enrolled without a charge and collection of tuition if the sending and admitting districts have entered into a written contract regarding the student's admission.
  - b. For purposes of determining whether the same grade level is offered, two or more school districts cooperating with each other for the joint provision of educational services under a plan approved by the superintendent of public instruction must be considered to be a single district.
  - c. The contract must specify whether transportation is to be provided and, if so, by which district. If a school district of residence does not provide transportation to the student, it may be provided by the admitting district and the admitting district is then entitled to state payments for the transportation of the student.
  - d. A contract is not necessary if the nonresident student is enrolled in an approved alternative education program for which no tuition is charged.
  - e. A school district may admit a nonresident student described in section 15.1-31-07 from another school district in this state without a charge and collection of tuition and without a written agreement.
3. A school district may not charge or collect from a nonresident student, the student's parent, or the student's district of residence any fees or charges not otherwise assessed to all resident students.

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

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

- c. At the time the student is initially placed in a state-operated institution, even if the student is later placed at a state-licensed foster home or at a state-licensed child care home or facility; or
    - d. At the time the student is voluntarily admitted to a state-operated institution or to a state-licensed child care home or facility.
2. The student's school district of residence is obligated to pay:
  - a. All charges for tuition upon claim of the admitting district; and
  - b. All charges for tutoring services upon claim of an admitting facility, provided that the tutoring services are delivered by an individual who is licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board.
3.
  - a. If, after a student placement is made as provided for under subsection 1, the student's custodial parent establishes residency in another school district in this state, the school district in which the custodial parent has established residency becomes the student's school district of residence for purposes of paying tuition and tutoring charges under subsection 2.
  - b. The state shall pay the tuition and tutoring charges under subsection 2 from funds appropriated by the legislative assembly for per student and transportation aid:
    - (1) If, after a student placement is made as provided for under subsection 1, the student's custodial parent establishes residency outside this state; or
    - (2) If a court orders a termination of parental rights with respect to the student's parents.
4. If the student is voluntarily admitted to a state-licensed child care home or facility, or to a state-operated institution, the student's parent or, if one has been appointed, the student's legal guardian may appeal a determination under section 15.1-29-05 regarding the payment of tuition by filing a petition with the county superintendent of schools. Within fifteen days of receiving the petition, the three-member committee established under section 15.1-29-06 shall consult with the boards of the affected school districts and with the student's parent or legal guardian and render a decision regarding responsibility for the payment of tuition charges.
5. If the student's district of residence does not pay the required tuition, the admitting district or facility shall notify the superintendent of public instruction. Upon verification that tuition payments are due and unpaid, the superintendent shall withhold an amount equal to the unpaid tuition from per student payments and transportation aid otherwise payable to the student's school district of residence until the tuition due has been fully paid.
6. An amount equal to the state average per student elementary or high school cost, depending on the student's grade of enrollment, is payable to the admitting district or facility as part of the cost of educating the student for the school year. The payment may not exceed the actual per student cost incurred by the admitting district or facility. The remainder of the actual cost of educating the student not covered by other payments or credits must be paid by the state, within the limits of legislative appropriations, from funds appropriated for special education in the case of a student with disabilities or from funds appropriated for per student payments and transportation aid in all other cases.
7. If a student with disabilities placed in accordance with this section reaches age eighteen and continues to receive special education and related services, the student's school district of residence is deemed to be the same as that of the student's custodial parent until

the special education services are concluded. If the student's custodial parent establishes residency outside this state, or if a court orders a termination of parental rights with respect to the student's parents, the state shall pay the tuition and tutoring charges under subsection 2 from funds appropriated by the legislative assembly for per student and transportation aid.

8. a. The placing agency shall provide written notice regarding an initial placement and all subsequent placements of a student, by registered mail, to the superintendent of the student's school district of residence and to the superintendent of the admitting district:
  - (1) Within five working days after a placement is made under court order;
  - (2) Within five working days after an emergency placement is made; or
  - (3) At least ten working days prior to any other placement.
- b. The written notice must include any information requested by the superintendent of public instruction for purposes of determining payment responsibility.
- c. The placing agency shall afford the student's school district of residence reasonable opportunity to participate in permanency planning for the student.
9. Notwithstanding this section, educational services provided to a student by the youth correctional center are not subject to the payment of tuition by either the student's school district of residence or the superintendent of public instruction.
10. For purposes of this section, "custodial parent" means the parent who has been awarded sole legal and physical custody of the student in a legal proceeding or, if there is currently no operative custody order, the parent with whom the student resides. If the student resides with both parents, then both are custodial parents.

**15.1-29-15. Levy for tuition payments.** If the board of a school district approves tuition payments for students in grades seven through twelve or if the board is required to make tuition payments under this chapter, the board may levy an amount sufficient to meet such payments, pursuant to subdivision c of subsection 1 of section 57-15-14.2.

**SECTION 14.** Chapter 15.1-30 of the North Dakota Century Code is created and enacted as follows:

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

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

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

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

1. The board of a school district in the state may pay to the parent of each student who resides more than two miles [3.22 kilometers] from the public school which the student attends a reasonable sum per day for each day the student attends the school, provided:
  - a. The student is transported to school by an adult member of the student's family;
  - b. The student's transportation is provided in a vehicle furnished by the student's parent;
  - c. The student's transportation is paid for by the student's parent; or
  - d. The cost of providing meals and lodging for the student at a location other than the student's residence is assumed by the student's parent.
2. The board shall calculate the payment provided for in this section according to the distance between the front door of the student's residence and the front door of the school attended by the student, using the most direct public route.

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

**15.1-30-04. Provision of meals and lodging for high school students - Payment permitted - Levy.** Instead of providing transportation so that an eligible high school student residing in the district can attend school in another district, a school board may pay a reasonable allowance to the student's parent for costs incurred in the provision of meals and lodging for the student at a location other than the student's residence. A school district that furnishes either transportation or an allowance for the provision of meals and lodging for a student under this section may levy a tax pursuant to subdivision a of subsection 1 of section 57-15-14.2 for this purpose.

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

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

1. Before the beginning of each school year, the board of a school district that provides transportation shall contract for the provision of transportation services during the school year. Except as provided in section 15.1-30-11, the board shall provide notice of its intent to contract by publishing the time and place for submission of sealed bids in the official newspaper of the school district at least ten days prior to the required date of submission. The notice must:
  - a. Include the route to be covered by each contract;
  - b. Provide that the board reserves the right to reject any and all bids;

- c. Provide that each successful bidder must submit in a separate envelope a bond in an amount set by the board, provided that the amount of the bond must be at least five hundred dollars;
  - d. Provide that the bond must be conditioned for the faithful performance of the duties set forth in the contract; and
  - e. Provide that any bids submitted name the individual who will operate the vehicle and describe the vehicle.
2. If the transportation vehicle is privately owned, the duration of the contract may not exceed seven years.
  3. This section does not apply to a school district that owns its own buses and employs its own busdrivers.

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

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

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

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

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

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

1. Notwithstanding sections 15.1-30-06 and 15.1-30-12, a contract for the transportation of students, originally bid by and let to a contractor, may be renewed:
  - a. Through direct negotiation between the board of a school district and the contractor; or
  - b. Upon sealed bids.
2. If a contract is to be renewed through direct negotiation, the school board shall publish notice in the official newspaper of the district, at least thirty days before the date of renewal, and shall make a good-faith effort to obtain at least two written quotations for the

contract. The board shall maintain all quotations received on file for at least one year after their receipt. The quotations are public information.

3. If any written quotations are received, the board may directly negotiate a contract, provided:
  - a. The board shall conduct a public meeting regarding the contract;
  - b. The board provides at least seven days' notice of the public meeting regarding the contract by publication in the official newspaper of the district; and
  - c. The public is given an opportunity to appear and comment at the public meeting.
4. All terms of the contract must be negotiated and agreed to in the public meeting.
5. If a contract is to be made upon the receipt of sealed bids, the board shall follow the procedure set forth in section 15.1-30-06 for advertising and awarding the bids.

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

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

**15.1-30-13. Transportation of students - Control and discipline.** The driver of a vehicle used to transport students under a contract as provided in this chapter is under the supervision and direction of the school board, the school district superintendent, the school principal, and the teachers of the school while the driver is on duty. The disciplinary authority of the school exists while a student is being transported, by or on behalf of the student's school, and the driver of the vehicle is charged with exercising control and discipline during the transportation.

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

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

1. If the board of a school district provides transportation services to its students, the board may provide transportation services to students attending nonpublic schools, provided:
  - a. The nonpublic school students are transported only along the bus route established for the public school students;

- b. The nonpublic school students are transported only on the days and at the times that the public school students are transported; and
  - c. The legal passenger capacity of each bus is not exceeded by the transportation of nonpublic school students.
2. a. The board of a school district that provides transportation to its students may contract with other local, state, or federal government entities for the joint provision and integration of transportation services to the public.
  - b. A contract under this section must provide for the observation of all safety requirements otherwise imposed by law on schoolbuses, on school vehicles, and on schoolbus drivers when students are being transported.
  - c. Transportation services to students provided pursuant to this subsection qualify for state transportation aid under chapter 15.1-27. However, no payments may be made from state funds for any costs incurred as a result of a deviation from established schoolbus routes necessitated by a contract pursuant to this subsection.

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

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

1. By February first of the school year preceding the year of enrollment, a parent who wishes to enroll a student in a North Dakota school district other than the student's district of residence shall file an application for approval with the board of the student's district of residence. The superintendent of public instruction shall make the application forms available in each school district.
2. By March first of the school year preceding the year of enrollment, the school board of the student's district of residence shall act on the application, notify the parent of the board's decision within five days, and if the application is approved, immediately transmit the application to the admitting district.
3. By April first of the school year preceding the year of enrollment, the board of the admitting district shall approve or deny the application. The board of the admitting district shall notify the board of the district of residence and the student's parent of its decision within five days.
4. Notice of intent to enroll in the admitting district obligates the student to attend the admitting district during the following school year unless the school boards of the resident and the admitting districts agree in writing to allow the student to transfer back to the resident district or the student's parent relocates to another district.
5. All applications must be reviewed in the order they are received.
6. A student whose school district of residence does not offer the grade level in which the student requires enrollment may not participate in open enrollment. For purposes of determining whether the grade level in which the student requires enrollment is offered, the several school districts cooperating with each other for the joint provision of education services under a plan approved by the superintendent of public instruction must be considered to be a single district.
7. A child placed for purposes other than education in a group or residential care facility or in a residential treatment center is not eligible for open enrollment under this section.
8. The board of a school district of residence and the board of an admitting district shall waive the application, consideration, and approval dates in this section for any student who,

together with the student's parent, moves from the student's school district of residence to another school district and who wishes to enroll in a school district other than the district to which the student moved.

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

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

1. Once a student is enrolled in an admitting district, the student must remain enrolled in the admitting district until:
  - a. The student graduates;
  - b. The student relocates to another district;
  - c. The student's parent applies for enrollment in another school district; or
  - d. The student's parent notifies the student's school district of residence that the student will attend school in the school district of residence the following year.
2. Payment for per student aid must be made to the admitting district in accordance with chapter 15.1-27.
3. For purposes of tuition apportionment payments, a student whose application is approved under this section is considered a resident of the admitting district.
4. Except as specifically provided in this chapter, chapter 15.1-29 does not apply to students involved in open enrollment.

**15.1-31-04. Open enrollment - Students with disabilities - Additional costs.** If an application under this chapter is approved for a student with a disability, the board of the student's school district of residence shall pay to the admitting district the costs incurred by the admitting district in providing special education and related services to the student up to a maximum each school year of two and one-half times the state average per student elementary or high school cost, depending on the student's enrollment level, plus twenty percent of all remaining costs. The superintendent of public instruction shall reimburse the admitting district eighty percent of the remainder of the cost of educating the student with disabilities within the limits of legislative appropriations for that purpose.

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

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

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



2. A board may also determine that applications for admittance under open enrollment, in accordance with this chapter, will not be considered.
3. A school district participating in an open enrollment program may not give or offer to give a student remuneration, or directly or indirectly exert influence on the student or the student's family, in order to encourage participation in the open enrollment program for the purpose of having the student participate in varsity athletic activities.

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

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

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

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

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

**15.1-32-03. Interagency cooperative agreements - Development and implementation.** The superintendent of public instruction shall develop and implement interagency agreements with the department of corrections and rehabilitation, the department of human services, the state department of health, and other public and private entities to maximize the state resources available for fulfilling the educationally related service requirements of Public Law No. 94-142 [89 Stat. 773] and section 504 of the Rehabilitation Act of 1973, as amended.

**15.1-32-04. Institutions not supervised by public school authorities - Rules.** The superintendent of public instruction shall adopt rules governing special education programs in institutions that are supported in whole or in part by the state, but which are not supervised by public

school authorities. The rules must be similar to those established for the delivery of special education in a public school.

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

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

**15.1-32-07. Director of special education - Assistance to school districts.** The director of special education shall assist school districts with the development and administration of special education programs.

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

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

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

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

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

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

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

1. A student with disabilities who receives special education services is deemed to be enrolled in the student's school district of residence for purposes of calculating per student payments.
2. An additional prorated per student payment may be made if a student with disabilities attends a special education summer program approved by the superintendent of public instruction, provided the student's individualized education program or services plan requires that the student attend a special education summer program.
3. If a student who is enrolled in a nonpublic school receives special education services in a public school, the superintendent of public instruction shall forward a proportionate per student payment to the school district in which the student receives the services.

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

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

1. If in the opinion of an individualized education program team or an education services team a student is unable to attend a public school in the student's school district of residence because of a physical disability, a mental disability, or a learning disability, and if no public school in the state will accept the student and provide the necessary services, the student's school district of residence shall contract with:
  - a. A private, accredited, nonsectarian, nonprofit institution that is located within or outside of this state and which has the proper facilities for the education of the student; or
  - b. A public school located outside of this state that has proper facilities for the education of the student.
2. The superintendent of public instruction shall approve in advance the terms of the contract and the services to be provided by the admitting institution or school.
3. The contract must provide that the student's school district of residence shall pay to the institution or school, as part of the cost of educating the student, an amount for the school year equal to two and one-half times the state average per student elementary or high

school cost, depending upon the student's level of enrollment, plus twenty percent of all remaining costs.

4. The amount paid may not exceed the actual per student cost incurred by the institution or school.
5. The superintendent of public instruction shall provide to the student's school district of residence, within the limits of legislative appropriations, an amount equal to eighty percent of the remainder of the actual cost of educating the student with disabilities not covered by other payments or credits.
6. The school district of residence is entitled to the per student payment for a student who receives services under this section.

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

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

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

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

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

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

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

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

**15.1-32-23. Special education teachers - Credentialing process.** The superintendent of public instruction may not change the credentialing process for special education teachers as it is in effect on July 1, 2001, without first convening a meeting to include representatives of the North Dakota council of education leaders, the council of exceptional children, the North Dakota education association, and the North Dakota school boards association. The purpose of the meeting is to receive comments regarding the proposed changes, the applicability of the proposed changes, including the scheduling, the manner of implementation, associated costs, and the short-term and long-term effects of the proposed changes. If, within thirty days after the date of the meeting, members of any two representative groups present at the meeting object in writing to the proposed changes, the superintendent may not implement the proposed changes before July 1, 2003.

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

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

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

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

1. A list of the unit's board members.
2. A description of how each school district is represented on the board.
3. The method used to select officers.
4. The terms of office.

5. Scheduled meeting times.
6. Quorum requirements.
7. Any other items required through rule by the superintendent of public instruction.

**15.1-33-04. Multidistrict special education unit - Board member appointments.** The organizational plan of each multidistrict special education unit must provide for the manner in which board members are appointed.

**15.1-33-05. Multidistrict special education unit - Board members - Compensation.** The board of each multidistrict special education unit shall set a level of compensation for services payable to its members, provided that no member may receive more than one thousand dollars annually for this purpose. In addition to compensation for services, each member may be reimbursed for all necessary meals and lodging and travel expenses actually incurred while engaged in official business of the board, at the same rate as provided for state officers and employees. Any mileage claimed may not exceed the number of miles [kilometers] between the points traveled as measured by the most usual route.

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

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

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

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

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

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

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

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

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

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

**15.1-34-02. Students with disabilities - Boarding home care - Registration certificate.** A person may not establish or operate a family boarding home unless the person first obtains a registration certificate from the department. This section does not apply if the student's boarding and care are provided in:

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

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

1. In order to obtain a registration certificate for a family boarding home, a person shall complete an application form available from the department.
2. The department may investigate the applicant's activities and may inspect the home for which the registration is sought.
3. The department shall grant the registration certificate within ten working days from the date the department receives the application if:
  - a. The home is in sanitary condition;
  - b. The home is properly equipped to provide for the health and safety of student boarders; and

- c. The individual in charge of the home and all assistants are qualified to fulfill the duties required of them under this chapter and under any rules or standards prescribed by the department.

4. A registration certificate issued under this section is effective for up to two years.

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

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

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

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

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

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

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

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

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

1. As part of a judicial proceeding;
2. To officers of the law;
3. To representatives of a governmental entity;
4. To the parent of a student for whom care is provided under this chapter; and



5. To any person who in the opinion of the department has, or may acquire, an advocacy function on behalf of a student for whom care is provided under this chapter.

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

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

**15.1-34-12. Registration certificate - Revocation - Administrative hearing.** Before the department may revoke a person's registration certificate, the department shall serve the holder of the registration certificate with notice of the revocation and the grounds for the revocation. The department shall hold an administrative hearing under chapter 28-32 regarding the revocation of the person's registration certificate, if requested to do so by the holder of the registration certificate within ten days from the date on which the department served the notice of revocation.

**15.1-34-13. Student with disabilities - Placement by governmental entity - Requirements.** A governmental entity may not provide for the placement of a student with disabilities in a family boarding home unless the person operating the home:

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

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

1. Establish standards for the registration and operation of a family boarding home.
2. Allow the application of alternate standards, if appropriate.
3. Adopt rules governing the provision of boarding home care to students with disabilities.
4. Authorize a governmental entity to:
  - a. Inspect any home for which a registration certificate is sought under this chapter; and

- b. Certify that the home meets the requirements of this chapter and any standards set by the department.

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

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

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

1. "Child nutrition program" means any program that provides federal assistance for the provision of nutritious meals to children.
2. "Food distribution program" means any program that provides federally donated agricultural commodities, products, and other foods, or cash payments in lieu of foods, to eligible participants.
3. "School" means a public school or a not-for-profit nonpublic school.

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

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

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

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

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

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

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

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

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

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

1. Notwithstanding the powers and duties of school boards provided by law, the superintendent of public instruction shall approve the construction, purchase, repair, improvement, modernization, or renovation of any public school building or facility before commencement of the project if the cost of the project, as estimated by the school board, is in excess of twenty-five thousand dollars.
2. The superintendent of public instruction may not approve a project unless the school district proposing the project:
  - a. Demonstrates the need for the project, the educational utility of the project, and the ability to sustain a stable or increasing student enrollment for a period of time at least equal to the anticipated usable life of the project or demonstrates potential utilization of the project by a future reorganized school district; and
  - b. Demonstrates the capacity to pay for the project under rules adopted by the superintendent of public instruction pursuant to chapter 28-32 after receiving input from the state board of public school education.
3. If the superintendent of public instruction denies the project, the school board may appeal the superintendent's decision to the state board of public school education. The decision of the state board is final.
4. This section does not apply to any construction, purchase, repair, improvement, renovation, or modernization required as part of a plan of correction approved by the state fire marshal under section 15.1-06-09 unless the cost of the improvements exceeds seventy-five thousand dollars.
5. For purposes of this chapter, "facility" includes a public school parking lot, public school athletic complex, or any other improvement to real property owned by the school district.

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

1. The board of university and school lands may authorize the use of moneys in the coal development trust fund established pursuant to section 21 of article X of the Constitution of North Dakota and subsection 1 of section 57-62-02 to provide school construction loans, as described in this chapter. The outstanding principal balance of loans under this chapter

may not exceed forty million dollars. The board may adopt policies and rules governing school construction loans.

2. In order to be eligible for a loan under this section, the board of a school district shall:
  - a. Obtain the approval of the superintendent of public instruction for its construction project under section 15.1-36-01; and
  - b. Submit to the superintendent of public instruction an application containing all information deemed necessary by the superintendent, including potential alternative sources or methods of financing the construction project.
3. The board of a school district may submit its loan application to the superintendent of public instruction before or after receiving authorization of a bond issue in accordance with chapter 21-03. If the vote to authorize a bond issue precedes the application for a loan, the application must be acted upon by the superintendent expeditiously but no later than one hundred eighty days from the date it is received by the superintendent.
4. The superintendent of public instruction shall consider each loan application in the order it received approval under section 15.1-36-01.
5. If the superintendent of public instruction approves the loan, the superintendent may determine the loan amount. In determining the amount of a loan, the superintendent shall take into account the cost of the construction project and the fiscal capacity of the school district.
6. If the superintendent of public instruction approves the loan, the superintendent may determine the interest rate to be paid. The interest rate on a loan under this section may not exceed a rate of two percent below the net interest rate on comparable tax-exempt obligations as determined on the date the application is approved by the superintendent pursuant to section 15.1-36-01. The interest rate may not exceed six percent.
7. A school district may not receive a loan under this section unless the superintendent of public instruction determines that the district has an existing indebtedness equal to at least fifteen percent of its taxable valuation. In determining a school district's existing indebtedness, the superintendent shall include outstanding indebtedness authorized by an election under section 21-03-07 but not issued and indebtedness authorized to be paid with dedicated tax levies under subsection 7 of section 21-03-07 but not issued.
8. The superintendent of public instruction may adopt rules governing school construction loans.
9. For purposes of this section, a construction project means the purchase, lease, erection, or improvement of any structure or facility by a school board, provided the acquisition or activity is within a school board's authority and further provided that the acquisition or activity is estimated to cost in excess of fifty thousand dollars.

**15.1-36-03. School construction project loans - Management by Bank of North Dakota.** If the superintendent of public instruction approves a loan application under section 15.1-36-02, the superintendent shall forward the application to the Bank of North Dakota. The Bank shall manage and service each school construction loan issued under this chapter and shall execute all necessary loan instruments. The Bank may charge a loan recipient a fee for managing and servicing the loan. The Bank shall receive payments of principal and interest from the school districts and shall remit the payments of principal and interest to the board of university and school lands. The board shall use or deposit the payments in accordance with section 57-62-02 and section 21 of article X of the Constitution of North Dakota.

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

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

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

**SECTION 21. REPEAL.** Chapters 15-21.1, 15-29, 15-34.1, 15-34.2, 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, 15-45, 15-47, 15-54, 15-59, 15-59.2, 15-59.3, and 15-60 of the North Dakota Century Code are repealed.

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Chief Clerk of the House

\_\_\_\_\_  
Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-seventh Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1045.

House Vote:      Yeas    94      Nays    0      Absent    4

Senate Vote:    Yeas    46      Nays    0      Absent    3

\_\_\_\_\_  
Chief Clerk of the House

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2001.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2001.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2001,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State