

**Fifty-ninth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2005**

HOUSE BILL NO. 1081
(Education Committee)
(At the request of the Superintendent of Public Instruction)

AN ACT to amend and reenact sections 54-40.2-02, 54-40.2-03.1, and 54-40.2-03.2 of the North Dakota Century Code, relating to notification to the superintendent of public instruction regarding agreements contemplated between school districts and Indian tribes.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-40.2-02 of the North Dakota Century Code is amended and reenacted as follows:

54-40.2-02. Authorization to enter agreements - General contents.

1. Any one or more public agencies may enter into an agreement with any one or more tribal governments to perform any administrative service, activity, or undertaking that any of the public agencies or tribal governments are authorized to perform by law and to resolve any disputes, in accordance with this chapter or any other law that authorizes a public agency to enter an agreement. The agreement must set forth fully the powers, rights, obligations, and responsibilities of the parties to the agreement.
2. The Indian affairs commission may propose agreements entered into pursuant to this chapter and may assist, at the request of any tribe affected by such an agreement, in the negotiation and development of such agreements.
3. If the public agency contemplating entering into an agreement under this chapter is a school district, the school district shall:
 - a. Provide written notice to the superintendent of public instruction that it is contemplating entering into an agreement under this chapter; and
 - b. Consider written recommendations that the superintendent makes regarding the agreement.
4. This chapter does not apply to agreements entered into under section 24-02-02.3 and chapter 54-38 or agreements entered with one or more tribal governments pursuant to a state or federally funded program or other activity, including any publicly announced offer of a grant, loan, request for proposal, bid, or other contract originating with a public agency, for which the tribal government is otherwise eligible under federal, state, or local law.

SECTION 2. AMENDMENT. Section 54-40.2-03.1 of the North Dakota Century Code is amended and reenacted as follows:

54-40.2-03.1. Agreement - Notice.

1. After the parties to an agreement have agreed to its contents, the ~~state~~ public agency involved shall publish a notice containing a summary of the agreement in the official newspaper of each county of the state reasonably expected to be affected by the agreement. The notice must also be published in any newspaper of general circulation for the benefit of the members of any tribe affected by the agreement. The notice must also be posted plainly at the tribal office of any tribe affected by the agreement and in the

county courthouse of any county affected by the agreement. The notice must state that the ~~state~~ public agency will hold a public hearing concerning the agreement upon the request of any resident of the county in which the notice is published if the request is made within thirty days of the publication of the notice.

2. If the public agency contemplating entering into an agreement under this chapter is a school district, the school district must also provide the superintendent of public instruction a copy of the notice.

SECTION 3. AMENDMENT. Section 54-40.2-03.2 of the North Dakota Century Code is amended and reenacted as follows:

54-40.2-03.2. Public hearing - Notice.

1. If the ~~state~~ public agency receives a request pursuant to section 54-40.2-03.1, the ~~state~~ public agency shall hold a public hearing prior to the submission of the agreement to the governor at which any persons interested in the agreement may be heard. Notice of the time, place, and purpose of the hearing must be published prior to the hearing in the official newspaper of each county of the state reasonably expected to be affected by the agreement. The notice of the public hearing must also be published in any newspaper of general circulation published for the benefit of the members of any tribe affected by the agreement. The notice must also be posted plainly at the tribal office of any tribe affected by the agreement and in the county courthouse of any county affected by the agreement. The notice must describe the nature, scope, and purpose of the agreement and must state the times and places at which the agreement will be available to the public for inspection and copying.
2. If the public agency contemplating entering into an agreement under this chapter is a school district, the school district must also provide the superintendent of public instruction a copy of the notice.

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-ninth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1081.

House Vote: Yeas 92 Nays 0 Absent 2

Senate Vote: Yeas 45 Nays 0 Absent 2

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2005.

Approved at _____ M. on _____, 2005.

Governor

Filed in this office this _____ day of _____, 2005,

at _____ o'clock _____ M.

Secretary of State