



2023 LEGISLATIVE SESSION GENERAL GUIDANCE

The following is meant to provide information and brief guidance to our members on several bills passed by the 68th Legislative Assembly that are particularly relevant to K-12 public education and school district operations. For more information on any of the bills covered, please feel free to contact NDSBA.

HB 1120 – *New* Pledge of Allegiance Requirement at School Board Meetings

HB 1120 requires school boards to allow board members the opportunity to participate in a voluntary recitation of the Pledge of Allegiance prior to every regularly scheduled school board meeting. This requirement applies only to board members. HB 1120 does not extend this requirement to meeting attendees in general. As a result of this change, NDSBA updated its **template policy BCAA (Board Meeting Agenda & Pre-Meeting Preparation)** to include this requirement in the recommended order of business on a regular meeting agenda. Additionally, NDSBA made other revisions to policy BCAA relating to pre-meeting procedure and the posting of meeting agendas. NDSBA also updated its **template policy BC (Meetings of the Board)** to include the pledge of allegiance requirement. This law becomes effective August 1.

HB 1125 – Changes to the School District Credit Enhancement Program

HB 1125 amends NDCC section 6-09.4-23, relating to withholding school district state aid payments and the school district credit enhancement program. The credit enhancement program was designed to reduce borrowing costs for school districts. Bonds sold with the credit enhancement program may have a higher rating which, in turn, means lower interest rates on the bonds. The program authorizes the Department of Public Instruction to withhold or intercept state aid to a school district if necessary to pay debt service on bonds. The intercepted aid is applied to the school district's bond payments. The program is voluntary- the school board must authorize use of this program as part of a bond financing. An intercept situation could occur if there is a: (1) tax levy certification error, or (2) mismanagement of public funds. The program requires a district's per pupil state aid to equal two times the annual payment of the district's debt in order to receive the state credit rate. Currently, districts' "in lieu of" taxes are deducted from their total per pupil state aid payments. Deducting the "in lieu of" taxes has resulted in some school districts, especially smaller districts, not receiving enough aid to participate in the program. This was not the credit enhancement program's intended outcome. Therefore, this bill adds the "in lieu of" taxes back in, allowing more districts to meet the qualifying requirements for the





credit enhancement program, potentially giving them a higher bond rating and lower interest rates on the bonds. HB 1125 becomes effective August 1.

HB 1132 – Students Allowed to Attend Virtual Schools

HB 1132 gives school districts the option to allow a military-connected student, a student with a medical condition unable to attend school, and students moving out of state to enroll early or remain enrolled and attend a district’s virtual school/academy. The bill defines a “military-connected student” as a student impacted by a military-directed reassignment or mid-year relocation. In order to choose this option, a board must operate a virtual school in accordance with NDCC 15.1-07-25.4 and NDAC ch. 67-30-02. The period of virtual instruction may not extend beyond the current school year. HB 1132 also provides that a military-connected student engaging in virtual instruction under this option qualifies for average daily membership in the school district. If a board chooses this option to provide virtual instruction to such students, the board is required to adopt a policy (boards who operate a virtual school must already have a local policy in place). To this end, NDSBA updated its **template policy ABAD (Virtual School)** to include this option. Policy ABAD is only required if the district plans to implement or has implemented a permanent virtual school/academy. This law becomes effective August 1.

HB 1144 – *New* Training Requirements for Mandated Reporters of Child Abuse/Neglect

HB 1144 creates a new section to NDCC chapter 15.1-19 regarding required training for mandated reporters of child abuse and neglect. The new section will require each public and nonpublic school teacher, administrator, and counselor to complete, on an annual basis, the online interactive training module provided by the Department of Health and Human Services for mandated reporters of suspected child abuse or neglect. Documentation of the individual’s completion will need to be provided annually to the department of public instruction. HB 1144 is an effort to reduce child abuse in North Dakota through education and prevention training, giving mandatory reporters the skills to detect evidence of child abuse and neglect, and properly report it. HB 1144 becomes effective August 1. Therefore, the training is required for the 2023/2024 school year.

HB 1187 – Expansion of Board Authority to Offer Signing Bonuses

HB 1187 broadens a school district’s ability to offer signing bonuses to contracted employees. HB 1187 amends North Dakota law to authorize schools to offer a signing bonus to a new or current contracted employee when that employee takes on a new role within the district. The individual no longer must be employed to serve as





a classroom teacher but must still sign a contract of employment in the district. This broadens the ability to offer signing bonuses to any employee who is under contract with the district and who takes on a newly assigned role in the district. The individual must still be licensed or approved to teach by ESPB. Additionally, HB 1187 authorizes signing bonuses to be paid in installments over a period of no more than **five** years (up from three years under previous law) from the date the individual signs a contract of employment. HB 1187 further provides that a signing bonus may not be used for an individual employed the prior year by another school district in the state until the individual has been employed in the district for two years. This protection is to prevent poaching of teachers from neighboring school districts. NDSBA has **template policy DCCA (Signing Bonuses)** available to help school districts establish basic parameters for signing bonus. This law becomes effective August 1.

HB 1238 – Extension of Moratorium on General Fund Balance Deductions

HB 1238 amends NDCC 15.1-27-35.3 to extend the moratorium on the unobligated general fund balance deductions from state aid formula payments to July 1, 2027. The moratorium was set to expire July 1, 2023. Additionally, the bill provides for a mandatory study during the 2023 interim of the implementation of effective parameters for the ending fund balance for a school district. The goal of the study is that school districts will be able to achieve credit scores sufficient to bond at a reduced cost to taxpayer while ensuring equitable and adequate education. HB 1238 becomes effective August 1.

HB 1245 – Communication of Property Tax Levies in Dollars

HB 1245 amends NDCC 57-15-01 relating to communication of property tax levies with the public. Specifically, the amendments to NDCC 57-15-01 will require taxing districts, including public school districts, to express levies in terms of dollars rather than mills for the purpose of communicating with the public and comparing the amount levied in the current taxable year to the amount levied in the preceding taxable year. Many school districts already do this; however, it is now a requirement. HB 1245 becomes effective August 1. School districts will already be involved in the budgeting process and should implement this requirement for purposes of communicating with the public.



HB 1257 – *New* Campaign Contribution Reporting Requirements for School District Elections

HB 1257 amends and reenacts NDCC 15.1-09-08, 16.1-08.1-02.3, and 16.1-08.1-05 relating to campaign contribution statements for candidates running for a seat on a local school board. The amendments to NDCC 15.1-09-08 require candidates seeking election to the school board to file a campaign contribution statement in addition to a statement of interest and statement of intent. NDCC 16.1-08.1-02.3 governs campaign disclosure statements, i.e., what is to be included in the statements, who files the statements, and where the statements are to be filed. This section was amended to add school board candidates to the list of candidates required to file a contribution statement. A candidate for school district office in a school district **with a fall enrollment of fewer than one thousand students is exempt** from the requirements of NDCC section 16.1-08.1-02.3. Those candidates who *are* required to file a statement must file statements with the school district business manager. Please note that candidates who are required to file a contribution statement may also be required to file a supplemental statement after filing the initial contribution statement along with the other candidate filings due on or before the 64th day of the election. The supplemental statement requirements are addressed in NDCC 16.1-08.1-02.3. HB 1257 becomes effective August 1 and therefore, its requirements will apply to elections held on or after this date.

HB 1259 – *New* Exception to Teacher Continuing Contract Rights

HB 1259 adds a new subsection to NDCC 15.1-15-12 relating to individuals under short-term contracts with a school district. NDCC 15.1-15-12 contains a list of exceptions to the requirements of NDCC chapter 15.1-15 relative to teacher and principal contract rights. The new subsection will add the following individuals to those exempt from chapter 15.1-15: any individual employed by a school district in a position substantially funded by grant funds, overloads, or a temporary funding source, or an individual replacing a school district employee and who is employed by a school district in a position substantially funded by grant funds, overloads, or a temporary funding source, if the individual received advance notice of the defined contract term before accepting employment with the school district. This means that these individuals will not have continuing contract rights under ND law and will not be entitled to the notice, hearing and other due process rights set forth in NDCC ch. 15.1-15. This law becomes effective August 1 and will apply to contracts dated or employment occurring after this date.



HB 1265 – *New* Health Curriculum Requirement

HB 1265 creates a new section to NDCC chapter 15.1-21 (Curriculum and testing), relating to growth and development and human sexuality curriculum. The new section governs what must be included in school districts' health curriculums as it pertains to human growth and development discussion, and human sexuality instruction. The requirements of HB 1265 become effective August 1 and implemented during the 2023/2024 school year.

HB 1288 – *New* Notice/Publication Requirements for School Construction Projects Using CMAR Services

HB 1288 creates a new subsection to NDCC 48-01.2-20 under the public improvement chapter of the Code. The new subsection creates new notice and publication requirements for construction manager at-risk contracts. Specifically, NDCC 48-01.2-20 will require a school district to publish a notice of request for qualifications to enter a construction management at-risk contract in a newspaper of general circulation in the county in which the public improvement is located and in a construction trade publication, electronic service, builders exchange, or other industry-recognized method in general circulation among the contractors, building manufacturers, and dealers in the state. The notice must be published for three consecutive weeks, with the first publication being at least twenty-one days before the date of opening of the request for qualifications. Upon written request, the district shall mail a copy of the invitation to any interested party. This law and its requirements become effective August 1.

HB 1337 – *New* Reporting Requirement relating to School Safety and Security Measures

HB 1337 creates a new section to NDCC chapter 15.1-27 (State Aid), relating to school safety and security measures. The new section of NDCC 15.1-27 requires school districts to provide a report to the superintendent of public instruction before December 1 each year, providing the categories and amount spent on “school safety and security measures” during the previous school year. “School safety and security measures” is defined to include: security planning; purchasing security-related technology; training in the use of security-related technology; instituting student, staff, and visitor identification systems, including criminal background check software; updating and exercising school emergency preparedness plans; strengthening partnerships with public safety officials and local law enforcement; and modifications and installation of materials to prevent unauthorized access to the school. This law becomes effective August 1. School districts must report the required information on or before December 1, 2023.



HB 1376 – Changes to Open Enrollment Requirements

HB 1376 made several changes to the open enrollment requirements under North Dakota law. First, it made clear that a parent who wishes to enroll a student in a school district other than the student’s school district of residence, must file an application for approval with the board of the admitting district. Second, the bill removed class size as an appropriate criterion for acceptance or rejection of an open enrollment application. Further, HB 1376 prevents a district from denying open enrollment of a student to an approved virtual school. It also requires a student’s school district of residence to pay the fees required for a student to attend the center for distance education. As a result of certain of these changes, NDSBA updated its **template policy FAAA (Open Enrollment)**. This law and its requirements become effective August 1.

HB 1386 – Board Discretion to Determine Professional Development Content

HB 1386 adds a new section to NDCC chapter 15.1-18.2 making it clear that it is within the discretion of local school boards to designate educational professional development content areas for its teachers. In addition, HB 1386 made the youth behavioral health training and professional development for teachers, administrators, and ancillary staff optional, rather than required. Prior to this change, each school district was required to provide a minimum of eight hours of professional development on youth behavioral health to elementary, middle, and high school teachers, and administrators every two years. Districts could meet this requirement by designating hours from a list of approved topics. NDSBA reviewed and updated our **template policy DGGA (Professional Development Plan)** to reflect the changes made by HB 1386. HB 1386 becomes effective August 1.

HB 1398 – *New* Computer Science and Cybersecurity Curriculum Requirements

HB 1398 amends NDCC 15.1-21-01, 15.1-21-02, and 15.1-21-02.2, relating to mandatory computer science and cybersecurity instruction and minimum requirements for high school graduation. The amendments add computer science, including cybersecurity, into the subjects each public and nonpublic elementary, middle school, and high school shall provide to students. Schools must develop a computer and science cybersecurity integration plan to ensure introduction to foundational computer science and cybersecurity knowledge. School board must approve of a plan by July 1, 2024. Computer science or cybersecurity will be an option under the three science unit requirements required to graduate.



HB 1494 – *New* School Lunch “No Shaming” Requirements

HB 1494 requires school districts participating in the Richard B. Russell National School Lunch Act to adopt a school meals policy to prevent “lunch shaming”. The policy must ensure students are not denied a United States department of agriculture reimbursable meal unless a student’s parent or guardian provides written permission to the school to withhold a meal. Additionally, schools are not allowed to do any of the following due to an unpaid student meal balance:

- Provide alternative meals to students with unpaid meal balances or without funds to pay for a meal;
- Take away meals from students that have already been served;
- Identify or stigmatize students with the use of tokens, stickers, stamps, or by placing the child’s name on a published list of persons with student meal debt; or
- Limit a student’s participation in any school or extracurricular activity.

Schools may contact a student’s parent or guardian directly regarding unpaid meals debt or insufficient funds to pay for additional meals. Schools may also require a child to deliver a sealed envelope regarding insufficient funds or unpaid meal debt to that child’s parent or guardian, but the school may not distribute that letter to the child in a manner that stigmatizes the child. Finally, a school must adopt policies to encourage or provide incentives for a parent or guardian of a student to apply for free or reduced meals through the Richard B. Russell National School Lunch Act. Schools are still allowed to pursue collection of unpaid school lunch debt so long as these requirements are followed. NDSBA updated its **template policy ABEC (School Meal Charge Policy)** to reflect these new requirements. This law becomes effective August 1.

HB 1521 – Changes to Learn Everywhere Program Approval Process

HB 1521 made changes to the approval process for students enrolled in grades six through twelve to earn course credit through educational opportunities with a sponsoring entity (i.e., Learn Everywhere program). Specifically the bill removes the requirement for the K-12 Education Coordination Council and the Superintendent of Public Instruction to review and approve a proposal from an eligible sponsoring entity after approval by a local school board. The proposal must still be submitted to the Superintendent of Public Instruction who will maintain oversight over the program approved by the school district. The Superintendent of Public Instruction may still revoke program approval if it is determined the school district or sponsoring entity failed to comply with the agreed upon terms of the educational opportunity proposal or the school district policy, or failed to meet the applicable requirements of North Dakota law. NDSBA updated its **template policy GACG (Educational Opportunities Through Sponsoring Entities)** to reflect these changes. School





districts who provide opportunities to their students through the Learn Everywhere program are required to adopt a local policy that complies with the requirements of North Dakota law and administrative rules issued by DPI. HB 1521 becomes effective August 1.

HB 1522 – Transgender Students/Employees Preferred Pronoun Usage and Restroom Requirements

HB 1522 creates a new section to NDCC chapter 14-02.4 and a new section to chapter 15.1-06, relating to preferred pronouns and providing accommodations to a transgender student. The new section of NDCC 14-02.4 (Human rights) prevents a government entity from adopting a policy requiring or prohibiting an employee’s use or designation of an individual’s preferred pronouns in work-related communications. The new section of NDCC ch. 15.1-06 (Schools) prevents school districts, public schools, and public-school teachers from adopting a policy that requires or prohibits any individual from using a student’s preferred gender pronoun. It additionally requires parental or legal guardian approval for a transgender student to use a separate restroom accommodation. Further, it requires school boards to prohibit students from using a restroom that does not coincide with the student’s biological sex. Finally, it prohibits school districts, public schools, and public-school teachers from adopting policies concerning a particular student’s transgender status without approval from the student’s parent or legal guardian, and from withholding or concealing information about a student’s transgender status from the student’s parent or legal guardian. This bill included an emergency clause and therefore, its requirements became effective immediately upon filing with the secretary of state (which occurred on May 9, 2023). NDSBA previously sent out guidance to policy services members on the impacts of HB 1522.

SB 2028 – *New* Interim Assessment Requirements

SB 2028 creates a new section of NDCC chapter 15.1-21, relating to interim assessment of students. The new section of NDCC 15.1-21-17.1 will require districts to annually administer to students in grades kindergarten through ten at least two assessments in math and reading. Districts must use a state-provided interim assessment or choose from a state-approved vendor list. The state-provided assessment will be managed and paid for by NDDPI; any district using the state-provided assessment will not be charged. Conversely, a district will be responsible for any assessment-related costs if they choose to use an assessment from the state-approved list. The assessment data will be provided electronically with the statewide longitudinal data system for the purpose of statewide aggregated data results. SB 2028 becomes effective August 1 and its requirements will need to be implemented during the 2023/2024 school year.



SB 2070 – Criteria for Issuing Teacher Permits

SB 2070 amends NDCC 15.1-18-10, relating to criteria for teacher permits. NDCC 15.1-18-10 (Specialty areas - Teacher qualification) allows individuals without a four-year degree, who have expertise in certain content areas to teach any subject other than elementary education, special education, mathematics, science, language arts, and social studies if the individual meets certain requirements. The amendment will allow districts to authorize that individual to teach for an additional four years, up to a maximum of seven years, if the individual is also enrolled in a teacher education program. The purpose of this bill is to continue to provide flexibility for hiring “community experts” to teach if a qualified teacher cannot be obtained. SB 2070 becomes effective on August 1.

SB 2180 – Changes to Political Subdivision Audit Requirements

SB 2180 amends NDCC 54-10-14 and 54-10-15 relating to the audits of political subdivisions by the state auditor. Specifically, the amendment to NDCC 54-10-14 (Political subdivisions – Audits – Fees – Alternative audits and reports) will allow the state auditor to require annual reports from school districts for any report delinquent as of June 30, 2023, in lieu of an audit. The bill further amended that section to allow annual reports in lieu of an audit every two years from school districts and other political subdivisions with less than two million dollars of annual receipts, excluding any funds passed through the district to another entity. That section will also now require any certified or licensed public accountant conducting political subdivisions audits to annually register with the state auditor’s office. Additionally, the amendment to NDCC 54-10-15 (Audits of political subdivisions by request of governor or order of the legislative audit and fiscal review committee, upon petition, or upon request of the state court administrator) will allow the state auditor, by duly appointed auditors or other authorized agents, to audit or review the books, records, and financial accounts of any school district when requested by the governor. These amendments will increase the threshold to trigger a financial statement audit, thus saving small districts the large financial burden of financial statement audit. Additionally, the state auditor can require annual reports if a district does not qualify for an audit. This will allow for appropriate oversight of smaller districts without the large financial burden of an audit. This law has a retroactive effective date for cases arising after January 1, 2022.

SB 2254 – Chronically Low-Performing Schools and Intervention by NDDPI

SB 2254 creates a new section to NDCC chapter 15.1-02, relating to intervention by the superintendent of public instruction for a chronically low-performing school or school district. The new section to NDCC 15.1-02



(Superintendent of public instruction – Qualifications) allows the superintendent of public instruction to conduct assessments, identify areas of insufficient performance, and develop improvement plans for “chronically low-performing districts”. Possible improvement plans include: funds to be held in escrow for the school or school district or spent as designated by the superintendent of public instruction; changes to curriculum, training, instruction, assessment, or the school calendar in the school or school district; or reassignment or hiring of school or school district staff to fill roles associated with school or school district needs. Additionally, a chronically low-performing school or school district shall complete a school board leadership program as required by the department of public instruction. This bill was declared an emergency measure and became effective immediately upon filing with the secretary of state (which occurred on April 24, 2023).

SB 2284 – K-12 Education Policy “Catch-All” Bill

SB 2284 was essentially the “catch-all” K-12 education policy bill and one of the last pieces of legislation approved in the remaining days of the session. SB 2284 set the per pupil payment rate (4% in first year of the biennium (\$10,646) and a 4% increase for the second year of the biennium (\$11,072)) and made several amendments to multiple sections of the North Dakota Century Code that impact K-12 public education. The following is a brief summary of most of those amendments:

- Section 2 of the bill amended NDCC 15.1-15-02 relating to the nonrenewal of “probationary teachers.” Specifically, the bill amended the definition of “probationary teacher” found in subsection 8 to make clear that it means an individual teaching for less than two years in the district. This will eliminate any confusion that a “probationary teacher” was intended to mean an individual who is in their first two years of employment as teacher generally (rather than within their first two years of employment in a particular district).
- Sections 3 and 4 amend subsections 2 and 6 of NDCC 15.1-19-10, relating to a school district’s policy governing possession of a weapon and the definition of “dangerous weapon”. NDCC 15.1-19-10 requires school districts to adopt a policy governing the possession of dangerous weapons and firearms on school property or at school functions. During legislative session, NDSBA asked that the term “dangerous weapon” be defined in NDCC 15.1-19-10 to provide clarity to school districts who are tasked with disciplining students who bring weapons to school. While the definition of a firearm is clear, the definition of a dangerous weapon under this section was less clear. Subsection 6 of NDCC 15.1-19-10 now makes clear that the definition of “dangerous weapon” for purposes of student possession on school property or at school functions is as defined in 18 USC § 930(g)(2). The federal definition was chosen over the state definition because, currently, students receiving services under the Individuals with Disabilities in Education Act (IDEA) who bring a weapon to school would be subject to the federal definition. Aligning the definition in this section of code to the federal definition provides clarity to districts no matter the student involved. Additionally, subsection 2 of NDCC



15.1-19-10 was amended to remove the requirement for immediate suspension and expulsion for possession of a dangerous weapon by a student on school property. This amendment to NDCC 15.1-19-10 will give school officials discretion to determine appropriate punishment when a student possesses a dangerous weapon on school property or at a school function. Section 3 of the bill also amends NDCC 15.1-19-10(2) to include a referral mechanism to the criminal justice or juvenile delinquency system for a student who possesses a firearm on school property. This is a federal law requirement and was included to add consistency in state law and policy requirements. NDSBA made updates to **our template policies FFD (Possessing Weapons) and FFK (Suspension and Expulsion)** to help school districts navigate these amendments to NDCC 15.1-19-10.

- Section 5 of SB 2284 creates a new section to NDCC chapter 15.1-21, which allows a school board to adopt a policy permitting private tutors to provide tutoring services on school premises. This is a local decision and school boards may dictate the parameters under which private tutors may provide such services on school property. To assist school boards in this regard, NDSBA revised its **template policy KAAA (Visitors in Schools) and related administrative regulation KAAA-AR (Visitors in the Schools Regulations)**.
- Section 13 of the bill requires a legislative management study relating to school choice models. Specifically, legislative management will study school choice models implemented nationally for kindergarten through grade twelve schools, including charter schools, magnet schools, private schools, voucher systems, and home schools. The study will include: a review of regulations implemented by state regulatory agencies to ensure accountability for various school choice models; a comparison of nontraditional school choice models implemented by other states; an analysis of the impact of enrollment fluctuation, including the impact on state aid; a review of the state's student population and enrollment capacity and tuition costs of nonpublic schools; and a review of services nonpublic schools are able to offer students with special needs.
- Section 17 of SB 2284 will provide an appropriation from the general fund in the state treasury, in the sum of \$6,000,000, or so much of the sum as may be necessary, to the department of public instruction for the purpose of providing grants to school districts to defray the expenses of providing meals, free of charge, for all students enrolled in public or nonpublic school at or below two hundred percent of the federal poverty guideline. This appropriation is for the biennium beginning July 1, 2023, and ending June 30, 2025.

