

**KILLDEER PUBLIC SCHOOL BOARD
SPECIAL MEETING
BUSINESS OFFICE
FRIDAY, JULY 18, 2025, 10:00 AM**



AGENDA

1. Call to Order
2. Consider Replacement of Cooling Unit

**CHAPTER 48-01.2
PUBLIC IMPROVEMENT BIDS AND CONTRACTS**

48-01.2-01. Definitions.

In this chapter, unless the context otherwise requires:

1. "Agency construction management" means a public improvement delivery method through which a person provides to a governing body experienced construction management services, including ideas on constructability, documentation of design and construction, and coordination of project schedules.
2. "Architect" means an individual registered as an architect under chapter 43-03.
3. "Common ownership" means a shared management or ownership interest in two or more entities.
4. "Construction" means the process of building, altering, repairing, improving, or demolishing any public structure or building or other improvement to any public property. The term does not include the routine operation or maintenance of existing facilities, structures, buildings, or real property or demolition projects costing less than the threshold established under section 48-01.2-02.1.
5. "Construction administration" means administrative services provided by a governing body or an architect, a landscape architect, or an engineer, and includes providing clarifications, submittal review, recommendations for payment, preparation of change orders, and other administrative services included in the agreement with the architect, landscape architect, or engineer. The term does not include supervision of the construction activities for the construction contracts.
6. "Construction management at-risk" means a public improvement delivery method through which a construction manager provides advice to the governing body during the planning and design phase of a public improvement, negotiates a contract with the governing body for the general construction bid package of the public improvement, and contracts with subcontractors and suppliers for the actual construction of the public improvement.
7. "Construction manager" means a contractor licensed under chapter 43-07 or an individual employed by a licensed contractor which has the expertise and resources to assist a governing body with the management of the design, contracting, and construction aspects of a public improvement.
8. "Construction observation" means observation of construction work and site visits by an architect, a landscape architect, or an engineer to assist the governing body in determining that the work conforms in general to the requirements of the construction contract and that the contractor has implemented and maintained the integrity of the design concept of a project as a functioning whole as indicated in the construction contract.
9. "Contract" means a type of agency agreement for the procurement of services under this chapter.
10. "Contractor" means any person, duly licensed, that undertakes or enters a contract with a governing body for the construction or construction management of any public improvement, including multiple prime contracts.
11. "Design services" means architect services, engineer services, landscape architect services, or surveyor services.
12. "Design-bid-build" means a project delivery method in which design and construction of the project are in sequential phases, and in which the first project phase involves design services, the second project phase involves securing a contractor through a bidding process, and the third project phase provides for construction of the project by a contractor awarded the project.
13. "Emergency situation" means a sudden generally unexpected occurrence that requires immediate action to protect public health, safety, or property and which ends when the immediate threat to public health, safety, or property ceases and services are restored. The term does not include a lack of planning on the part of the governing body, architect, engineer, landscape architect, or contractor.

14. "Engineer" means an individual registered as an engineer under chapter 43-19.1.
15. "General conditions" means the written portion of a contract setting forth the governing body's minimum acceptable performance requirements, including the rights, responsibilities, and relationships of the parties involved in the performance of the contract.
16. "Governing body" means the governing officer or board of a state entity or a political subdivision.
17. "Guaranteed maximum price" means the maximum amount a construction manager at-risk may be paid under a contract to construct a public improvement.
18. "Landscape architect services" means landscape architecture services governed under chapter 43-03.
19. "Lowest responsible bidder" means the lowest best bidder for the project considering past experience, financial condition, past work with the governing body, and other pertinent attributes that may be identified in the advertisement for bids.
20. "Political subdivision" means a county, township, park district, school district, city, and any other unit of local government which is created either by statute or by the Constitution of North Dakota for local government or other public purposes.
21. "Public improvement" means any improvement undertaken by a governing body for the good of the public and which is paid for with any public funds, including public loans, bonds, leases, or alternative funding, and is constructed on public land or within an existing or new public building or any other public infrastructure or facility if the result of the improvement will be operated and maintained by the governing body. The term does not include a county road construction and maintenance, state highway, or public service commission project governed by title 11, 24, or 38.
22. "Subcontractor" means a person that contracts to perform work or render a service to a contractor or to another subcontractor as part of a contract with a governing body.

48-01.2-02. Plans and specifications for a public improvement contract.

Except as otherwise provided in this chapter, if the estimated cost for the construction of a public improvement is in excess of the threshold established under section 48-01.2-02.1, the governing body shall procure plans, drawings, and specifications for the improvement from an architect or engineer. For a public building in use by or to be used by the North Dakota agricultural experiment station in connection with farm or agricultural research operations, the plans, drawings, and specifications, with the approval of the state board of higher education, may be prepared by an engineer in the regular employment of the agricultural experiment station. For a public building in use by or to be used by the department of transportation for the storage and housing of road materials or road machinery, equipment, and tools, the plans, drawings, and specifications may be prepared by an engineer employed by the department of transportation. Plans, drawings, and specifications of an architect or engineer must be stamped and sealed by the date of the initial bid advertisement.

48-01.2-02.1. Public improvement construction threshold.

1. The threshold for bidding construction of a public improvement is two hundred fifty thousand dollars. The threshold for procuring plans, drawings, and specifications from an architect or engineer for construction of a public improvement is two hundred fifty thousand dollars.
2. Notwithstanding the thresholds in subsection 1, if the state or a political subdivision undertakes the construction of a public improvement and there is reason to believe that engineering or architectural services are necessary to protect the health, safety, or welfare of the public, the state or political subdivision shall consider consulting with an engineer or architect.

48-01.2-03. Specified brands, marks, names, or patented articles may not be specified.

A governing body, in specifying materials to be used for a public improvement or in plans or specifications for a public improvement, may not request bids for any article of a specified or copyrighted brand or name, the product of any one manufacturer, or any patented apparatus or appliance when the requirement will prevent proper competition, unless the specifications also request bids on other similar articles of equal value, utility, and merit or unless as provided in section 44-08-01.

48-01.2-04. Publication of advertisement for bids - Emergency exception.

1. Except as otherwise provided in this chapter, if the estimated cost for the construction of a public improvement is in excess of the threshold established under section 48-01.2-02.1, the governing body shall advertise for bids by publishing for three consecutive weeks. The first publication of the advertisement must be at least twenty-one days before the date of the opening of bids. The advertisement must be published in the official newspaper of the political subdivision in which the public improvement is or will be located, in a daily newspaper having a general circulation in the area where the project is located, and in a trade publication, electronic plan service, builders exchange, or other industry-recognized method of general circulation among the contractors, building manufacturers, and dealers in this state, except the advertisement for a public improvement financed by special assessments need be published only once each week for two weeks in the official newspaper with the first publication being at least fourteen days before the bid opening.
2. If a governing body declares an emergency situation, the governing body may contract for the construction of a public improvement without seeking bids.

48-01.2-05. Contents of advertisement.

The advertisement for bids required by section 48-01.2-04 must state:

1. The nature of the work and the type and location of the proposed public improvement.
2. When and where the plans, drawings, and specifications may be seen and examined.
3. The place, date, and time the bids will be opened.
4. That each bid must be accompanied by a separate envelope containing the contractor's license and bid security. The bid security must be in a sum equal to five percent of the full amount of the bid and must be in the form of a bidder's bond. A bidder's bond must be executed by the bidder as principal and by a surety, conditioned that if the principal's bid is accepted and the contract awarded to the principal, the principal, within ten days after notice of the award, shall execute a contract in accordance with the terms of the bid and the bid bond and any condition of the governing body. A countersignature of a bid bond is not required under this section. If a successful bidder does not execute a contract within the ten days allowed, the bidder's bond must be forfeited to the governing body and the project awarded to the next lowest responsible bidder.
5. That a bidder must be licensed for the full amount of the bid as required by section 43-07-12.
6. That no bid may be read or considered if the bid does not fully comply with the requirements of this section and that any deficient bid submitted must be resealed and returned to the bidder immediately.
7. That the governing body reserves the right to reject any and all bids and rebid the project until a satisfactory bid is received.

48-01.2-06. Bid requirements for public improvements.

1. Multiple prime bids for the general, electrical, and mechanical portions of a project are required when any individual general, electrical, or mechanical contract or any combination of individual contracts is in excess of the threshold established under section 48-01.2-02.1. If a general, mechanical, or electrical contract is estimated to be

less than twenty-five percent of the threshold, the contract may be included in one of the other prime contracts. A governing body may allow submission of a single prime bid for the complete project or bids for other specialized portions of the project. A governing body may not accept the single prime bid unless that bid is lower than the combined total of the lowest responsible multiple bids for the project.

2. If a bid for the general, electrical, or mechanical portions of a project is not received, a governing body may:
 - a. Negotiate a contract amendment, up to an additional one hundred fifty thousand dollars, with the general, electrical, or mechanical contractor whose contract would represent the largest portion of the project cost for providing the portion of the project for which a bid was not received without rebidding all or part of the project; or
 - b. Award a contract for each portion of a project that received responsible bids pursuant to section 48-01.2-07 and readvertise for bids on the portion of the project that did not receive bids.

48-01.2-07. Opening of bids - Award of contract.

At the time and place specified in the notice, a governing body or its designated agent shall open publicly and read aloud each responsible bid received. The governing body shall award the contract to the lowest responsible bidder. A governing body may reject any and all bids and readvertise for bids if no bid is satisfactory or if the governing body determines any agreement has been entered by the bidders or others to prevent competition. The governing body may advertise for new bids in accordance with this chapter until a satisfactory bid is received.

48-01.2-08. Officers must not be interested in contract.

A governing body, or any member, employee, or appointee of a governing body, may not be pecuniarily interested or concerned in a contract for a public improvement entered by the governing body.

48-01.2-09. Contract with successful bidder.

A governing body shall enter a contract with the lowest responsible bidder as determined under section 48-01.2-07. The contract must contain the following:

1. The written terms of the agreement and any associated document signed by the governing body and the contractor;
2. The required surety bond; and
3. Any other document deemed appropriate by the governing body and identified in the advertisement for bids.

48-01.2-10. Bonds from contractors for public improvements.

1. Unless otherwise provided under this chapter, a governing body authorized to enter a contract for the construction of a public improvement in excess of two hundred fifty thousand dollars shall take from the contractor a bond before permitting any work to be done on the contract. The bond must be for an amount equal at least to the price stated in the contract. The bond must be conditioned to be void if the contractor and all subcontractors fully perform all terms, conditions, and provisions of the contract and pay all bills or claims on account of labor performed and any supplies, and materials furnished and used in the performance of the contract, including all demands of subcontractors. The requirement that bills and claims be paid must include the requirement that interest of the amount authorized under section 13-01-14 be paid on bills and claims not paid within ninety days. The bond is security for all bills, claims, and demands until fully paid, with preference to labor and material suppliers as to payment. The bond must run to the governing body, but any person having a lawful claim against the contractor or any subcontractor may sue on the bond.

2. A governing body may not require any person required to provide a surety bond to obtain the surety bond from a specified insurance or surety company or insurance producer or to submit financial data to the company or producer.

48-01.2-11. Claim for public improvement - Suit on contractor's bond.

A person that has furnished labor or material for any public improvement for which a bond is furnished and has not been paid in full within ninety days after completion of the contribution of labor or materials may sue on the bond for the amount unpaid at the time of institution of suit. However, a person having a direct contractual relationship with a subcontractor, but no contractual relationship with the contractor furnishing the bond, does not have a claim for relief upon the bond unless that person has given written notice to the contractor, within ninety days from the date on which the person completed the contribution, stating with substantial accuracy the amount claimed and the name of the person for which the contribution was performed. The notice must be served by registered mail in an envelope addressed to the contractor at any place the contractor maintains an office, conducts business, or has a residence.

A governing body shall provide a certified copy of the bond and the contract for which the bond was given to any individual who submits an affidavit that either the individual has supplied labor or materials for the improvement and that payment has not been made or that the individual is being sued on the bond. The individual requesting the copy shall pay the actual cost of the preparation of the certified copy of the bond and the contract. The certified copy of the bond is prima facie evidence of the contents, execution, and delivery of the original.

48-01.2-12. Claims - When barred as liens against contractor and surety.

Any claim for any labor, material, or supply furnished for an improvement, upon which a suit is not commenced within one year after completion and acceptance of the project, is barred as a lien or claim against the contractor and the contractor's surety and any right of setoff or counterclaim may be enforced in any court in this state against the governing body, the contractor, or the contractor's surety. This chapter does not bar the right of any person who has furnished any labor, supply, or material to any subcontractor to enforce the claim against the subcontractor.

48-01.2-13. Payments.

At least once in each calendar month during the continuance of work upon any public improvement, the governing body shall receive and consider any partial payment estimate prepared by the architect or engineer. Upon review and approval, the governing body shall pay an estimate in an amount equal to the estimated value of the labor and material furnished plus the material adequately stored. A partial payment estimate must include retentions or retainage as follows: ten percent of each estimate until the project is fifty percent completed with no further retainage on estimates during the continuance of the contract unless unsatisfactory progress or performance is documented. The governing body may, upon completion of ninety-five percent of the contract, pay to the contractor up to ninety-five percent of the amount retained from previous estimates. The remaining amount retained must be paid to the contractor in the amounts and at the times approved by the architect or engineer. The governing body shall make final payment of all moneys due to the contractor following completion of all work, acceptance of the project by the governing body, and the provision of necessary releases. If an architect or engineer is not employed by the governing body for administration of the contract, the contractor, at the end of each calendar month during the continuance of work, may furnish a payment estimate to the governing body. After considering and approving an estimate, the governing body shall draw a warrant upon the proper fund and promptly transmit the warrant to the contractor. The governing body may invest or deposit any retained amount in a financial association or institution so that the contractor's money retained is earning interest or dividends for the benefit of the contractor. Any amount invested or deposited must remain in the name of the governing body until final payment of all money due to the contractor is to be made.

48-01.2-14. Late payment - Rate of interest.

If a governing body fails or neglects to consider any estimate properly submitted, pay any estimate approved, or make final payment upon completion and acceptance of a public improvement, for a period of more than thirty days from the date of approval of the estimate or the completion and acceptance date, the governing body shall pay interest on the estimate or final payment from the date of approval. The interest rate must be the rate per annum of two percentage points below the Bank of North Dakota prime interest rate as set thirty days from the date of the estimate or completion date until the issuance of a proper warrant for the payment. The governing body shall compute and add the interest to the face of the estimate or final payment and the interest must be charged to the fund upon which payment for the contract is to be made. No payment for, or on account of, any contract made under this chapter may be made except upon estimate of the architect, engineer, or contractor as provided in section 48-01.2-13.

48-01.2-15. Appropriations may not be diverted.

No portion of any special appropriation for the erection of any public improvement, or for the doing of any work, may be drawn from the state treasury in advance of the work being completed or of the materials furnished. The funds may be drawn only upon proper estimates approved by the governing body of the institution for which the improvement is being constructed. No portion of any appropriation for any purpose may be drawn from the treasury before the appropriation is required for the purpose for which it is made, and no appropriation that is or may be made for any purpose with respect to the construction or improvement may be drawn or used for any other purpose until the construction or improvement for which the appropriation was made is fully completed and paid for.

48-01.2-16. Architects, landscape architects, and engineers - Duties.

The governing body shall employ the architect, landscape architect, or engineer furnishing the plans as provided in this chapter or some other qualified person to provide construction administration and construction observation services for which the plans and specifications are prepared as provided by section 48-01.2-02. The architect, landscape architect, or engineer shall assist the governing body in determining that the contractor performs the work in accordance with the intent of the plans and specifications. As part of a site visit or construction observation, the architect, landscape architect, or engineer may not supervise, direct, or have control over the contractor's work. The architect, landscape architect, or engineer may not exercise control over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by the contractor, the quality control of the work, the security or safety on the site, any safety precaution or program incident to the contractor's work, the failure of the contractor to comply with any law or rule applicable to the contractor's furnishing of or performance of the work, or the failure of the contractor to furnish or perform the work in accordance with the construction contract. The architect, landscape architect, or engineer is entitled to receive a reasonable compensation to be fixed by the governing body. Any duty imposed or power conferred upon the governing body by this chapter applies to a successor to the governing body.

48-01.2-17. Coordination of work under multiple prime bids.

If a public improvement is awarded as multiple prime contracts for the general, electrical, mechanical work, and other prime contracts as contained in the bid for the project, the governing body may assign the coordination of the electrical and mechanical contracts and any other contracts to the general contractor for the project to facilitate the coordination of the work.

48-01.2-18. Construction management - Governing body determinations.

1. Notwithstanding any other provision of law, a governing body may use the agency construction management or construction management at-risk delivery methods for construction of a public improvement if:
 - a. The agency construction manager has no common ownership or conflict of interest with the architect, landscape architect, or engineer involved in the

- planning and design of the public improvement or with any person engaged in the construction of the public improvement.
- b. The construction manager at-risk has no common ownership or conflict of interest with the architect, landscape architect, or engineer involved in the planning and design of the public improvement.
2. Before utilizing the agency construction management or construction management at-risk delivery method, a governing body shall make the following determinations:
 - a. That it is in the best interest of the public to utilize the agency construction manager or construction manager at-risk public improvement delivery method.
 - b. That the agency construction manager or construction manager at-risk planning and design phase services will not duplicate services normally provided by an architect or engineer.
 - c. That the agency construction manager or construction manager at-risk construction services will be in addition to and not duplicate the services provided for in the architect and engineer contracts.
 3. The governing body shall provide written documentation of the determinations provided for under subsection 2 upon written request from any individual.

48-01.2-19. Agency construction management procurement procedures - Contract.

1. A governing body electing to utilize the agency construction management delivery method shall establish a construction management services selection committee composed of individuals the governing body determines to be qualified to make an informed decision as to the most competent and qualified person for the proposed public improvement.
2. The agency selection committee shall:
 - a. Develop a description of the proposed public improvement;
 - b. Enumerate each required agency construction management service for the proposed public improvement; and
 - c. Prepare the formal invitation request for qualifications, which must include the project title, the general scope of work, a description of each service required for the public improvement, the final selection criteria, the address to which responses to the request must be submitted, and the deadline for submission of responses.
3. The governing body shall publish a notice of the request for qualifications 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 this state and shall 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 governing body shall mail a copy of the invitation to any interested party.
4. After the submission deadline, the selection committee shall hold interviews with at least three persons that have responded to the advertisement and which are deemed most qualified on the basis of information available before the interviews. If less than three persons have responded to the advertisement, the committee may readvertise or hold interviews with any person that submitted a response. The selection committee's determination as to which person will be interviewed must be in writing and must be based upon the committee's review and evaluation of all materials submitted. The written report of the committee must list the name of each person that responded to the advertisement and enumerate any reason for selecting any person to be interviewed. The written report must be available to the public upon written request. The purpose of the interviews must be to provide any information required by the selection committee to fully acquaint the committee members with the relative qualifications of each person that responded to the advertisement.
5. The selection committee shall evaluate each person interviewed on the basis of the following criteria:

- a. The past performance of the person with respect to prior public improvements.
 - b. The qualifications of proposed personnel.
 - c. The willingness to meet time and budget requirements of the governing body.
 - d. The business location of the person.
 - e. The recent, current, and projected workloads of the person.
 - f. Any related experience performing agency construction management services on projects of similar size and scope.
 - g. Any recent or current work by the person for the agency.
 - h. The ability of the person to provide the bond for the person's portion of the work on the public improvement.
 - i. The possession by the person of a class A contractor's license.
6. Based upon the evaluation under subsection 5, the selection committee shall rank the three persons which, in its judgment, are most qualified. If fewer than three persons responded to the advertisement, the selection committee shall rank each person that responded. The selection committee's report ranking the interviewed persons must be in writing and must include data substantiating the committee's determinations. The data must be available to the public upon written request.
 7. The selection committee shall submit its written report ranking the interviewed persons to the governing body for evaluation and approval by the governing body. The governing body shall determine the final ranking of each person and provide written notification of the order of preference to each person that responded to the request for qualifications.
 8. After providing the notice under subsection 7, the governing body shall negotiate a contract for services with the most qualified person at a compensation which is fair and reasonable to the governing body. If the governing body is unable to negotiate a satisfactory contract with that person, the governing body shall terminate negotiations with that person and commence negotiations in the same manner with the second and then the third most qualified person until a satisfactory contract has been negotiated. If no agreement is reached, three additional persons in order of the original ranking must be selected after consultation with the selection committee, and negotiations must be continued in the same manner until agreement is reached.
 9. The governing body, at any time, may reject all proposals and readvertise or select another allowed project delivery method.

48-01.2-20. Selection process for construction management at-risk planning and design phase services.

1. A governing body electing to utilize a construction management at-risk delivery process for a proposed public improvement shall create a selection committee composed of:
 - a. An administrative individual from the governing body.
 - b. A registered architect.
 - c. A registered engineer.
 - d. A licensed contractor.
2. The governing body may compensate members of the selection committee. A member of the selection committee is not eligible to submit a proposal for the construction management at-risk contract under consideration.
3. Before issuing a notice of request for qualifications to enter a construction management at-risk services contract, the selection committee shall establish the content of the request for qualifications, which must include the following:
 - a. The identity of the governing body and a list of the members of the selection committee;
 - b. A description of the proposed public improvement;
 - c. The proposed budget limits of the public improvement;
 - d. The commencement and completion date of the public improvement;
 - e. The procedures to be used in submitting proposals;
 - f. The qualifications evaluation criteria and the relative weighting of items;

- g. The subcontractor selection process to be used for construction services;
 - h. The number of persons to be included in the final list;
 - i. A statement indicating whether formal interviews will be held;
 - j. A statement indicating whether fees and prices must be included in any proposal;
 - k. A description of contract terms and conditions for the construction management at-risk services contract, including a description of the scope of services to be provided;
 - l. A description of the procedures to be used for making the contract award;
 - m. The insurance and bonding requirements and a statement requiring any person submitting a proposal to include with the proposal a certificate of insurance, indicating liability coverage; and
 - n. The identification and location of other pertinent information the governing body may possess, including surveys, soils reports, drawings or models of existing structures, environmental studies, photographs, or references to public records.
4. The request for qualifications submittal procedures must include the specific format that must be used by a construction manager at-risk when submitting a request for qualifications and the submission deadline location for submission of the request for qualifications.
 5. The selection committee shall determine the appropriate evaluation criteria for each request for qualifications, including:
 - a. The person's experience on any similar project;
 - b. The person's existing workload and available capacity;
 - c. The person's key personnel experience on any similar project;
 - d. The person's safety record;
 - e. The person's familiarity with the location of the public improvement;
 - f. The person's fees and expenses;
 - g. The person's compliance with state and federal law; and
 - h. Any reasonable information the selection committee deems necessary.
 6. The selection committee shall evaluate each submission based on the qualification criteria under subsection 5 and shall include the numeric scoring of each criteria item on a weighted basis, with no item being weighted at more than twenty percent and no less than five percent. The weighting of the qualification criteria must be done in a manner to ensure no subjective bias and encourage the maximum participation of qualified construction managers at-risk.
 7.
 - a. The selection committee shall review each proposal submitted and include the three highest ranked construction managers at-risk on a list of finalists. If fewer than three proposals were submitted, the governing body may resolicit for qualifications, interview any person that applied, or consider using another allowed delivery method. The selection committee shall recommend to the governing body the construction manager at-risk receiving the highest score on the evaluation criteria.
 - b. If a construction manager at-risk selected for a public improvement declines the appointment or is unable to reach agreement with the governing body concerning fees or terms of the contract, the governing body shall terminate negotiations with the construction manager at-risk and begin negotiations with the construction manager at-risk with the next highest score and continue that process until agreement is reached or the list of finalists is exhausted.
 - c. If the list of finalists is exhausted, the governing body shall request the selection committee to revise the request for qualifications and solicit new submissions. If the selection committee is unable to provide any constructive revision to the request for qualifications, the governing body shall select another allowed public improvement delivery method.
 - d. The governing body, upon reaching an agreement with a construction manager at-risk on compensation and contract terms for construction management planning and design services, shall enter a written contract with the construction manager at-risk for the services.

8. The governing body shall publish a notice of request for qualifications to enter a construction management at-risk contract under this section 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 this 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 governing body shall mail a copy of the invitation to any interested party.

48-01.2-21. Selection process for construction management at-risk services - Construction services.

After the governing body and the construction manager at-risk have finalized the contract for planning and design phase services and the process has progressed sufficiently to provide the construction manager at-risk the necessary project details, the governing body and the construction manager at-risk shall enter negotiations for a guaranteed maximum price and contract terms for the general construction of the public improvement. If the governing body is unable to negotiate a satisfactory contract with the highest qualified person on the list of finalists, the governing body shall terminate negotiations with that person. The governing body shall commence negotiations with the next most qualified person on the list in sequence until an agreement is reached or a determination is made to reject all persons on the list. If the governing body reaches an agreement with a construction manager at-risk on a guaranteed maximum price and on contract terms, the governing body and construction manager at-risk shall enter a written contract for the general construction management at-risk construction services.

48-01.2-22. Subcontractor bids.

1. An agency construction manager selected for a public improvement shall publicly advertise and publicly open bids from subcontractors for the work items necessary to complete the general construction portions of the improvement. The governing body may influence the selection of the subcontractors, but only insofar as the governing body's past experience with a subcontractor or a current legal dispute with a subcontractor.
2. A construction manager at-risk selected for a public improvement shall publicly advertise and publicly open bids from subcontractors for the work items the construction manager at-risk chooses not to perform. The construction manager at-risk then shall evaluate the bids and determine which is the most responsible. The governing body may influence the selection of the subcontractors, but only insofar as the governing body's past experience with a subcontractor or a current legal dispute with a subcontractor.

48-01.2-23. Bond required.

1. An agency construction manager, before starting any work, shall provide the governing body with a bond that is equal to the cost of the agency construction manager's services with the governing body. Under an agency construction manager delivery method, each contractor performing services on the public improvement shall provide the governing body with a separate bond for the contractor's portion of the public improvement.
2. A construction manager at-risk, before starting any construction, shall provide the governing body with a bond in an amount at least equal to the amount of the guaranteed maximum price. The bond must be conditioned to be void if the contractor and all subcontractors fully perform all terms, conditions, and provisions of the construction services contract and pay all bills or claims on account of labor and materials, including supplies used for machinery and equipment, performed, furnished, and used in the performance of the contract, including all demands of subcontractors.

The requirement that bills and claims be paid must include the requirement that interest of the amount authorized under section 13-01.1-02 be paid on bills and claims not paid within ninety days. The bond is security for all bills, claims, and demands until fully paid, with preference to labor and material suppliers as to payment. The bond must run to the governing body, but any person having a lawful claim against the contractor may sue on the bond. Under a construction manager at-risk delivery method, the governing body may not require each contractor performing services on the public improvement to provide a separate bond for the contractor's portion of the public improvement.

48-01.2-24. Public buildings and facilities - Statement of compliance with accessibility guidelines.

Each governing body shall require a statement from any person preparing the plans and specifications for a public building or facility that, in the professional judgment of that person, the plans and specifications are in conformance with the Americans with Disabilities Act accessibility guidelines for buildings and facilities as contained in the appendix to title 28, Code of Federal Regulations, part 36 [28 CFR 36], subject to the exception stated in section 54-21.3-04.1.

48-01.2-25. Authorization of expansion of public improvements by legislative assembly or budget section.

Notwithstanding any other provision of law, a state agency or institution may not significantly change or expand a public improvement beyond what has been approved by the legislative assembly unless the legislative assembly approves the change or expansion of the project or any additional expenditure for the project. During the time the legislative assembly is not in session, and unless otherwise restricted by previous legislative action or other law, the budget section may approve a change or expansion or any additional expenditure for the project. However, the budget section may not approve a change, expansion, or additional expenditure for the project during the three months preceding the convening of a regular session or during the three months following the close of a regular session except for changes in project scope and related additional expenditures resulting from an unforeseen emergency event. Any request considered by the budget section must comply with section 54-35-02.9. For the purposes of this section, a significant change or expansion includes the construction of an addition to a building, including skywalks or other type of enclosed walkway, or any other substantial increase in the area of the building, but does not include the construction of building entrances and stairwells.

CHAPTER 15.1-09 SCHOOL BOARDS

15.1-09-01. School board membership - Size and term adjustments.

1. The board of a school district must be composed of five, seven, or nine members.
2. The size of a school board may be increased to seven or nine members or decreased to seven or five members if a petition is signed by qualified electors of the school district equal in number to at least one-third of those who voted at the most recent annual school district election and the change is approved by a majority of the qualified electors of the school district voting on the question at a special election called for that purpose.
3. If a majority of the qualified voters in a school district elect to increase the size of the school board, the additional members must be elected to the board at the next annual school district election in the same manner as other board members.
 - a. If the total number of board members after approval of the increase is seven, the terms of three members extend until the first annual election, the terms of two members extend until the second annual election, and the terms of the remaining two members extend until the third annual election.
 - b. If the total number of board members after approval of the increase is nine, the terms of three members extend until the first annual election, the terms of three members extend until the second annual election, and the terms of the remaining three members extend until the third annual election.
 - c. The length of the terms specified in this subsection must be determined by lot.
 - d. All board members shall serve for the terms specified in this subsection and until their successors are elected and qualified.
 - e. The length of any term in existence before the increase in board membership and held by a board member who is duly qualified may not be modified.
 - f. Terms subsequent to the first term are for the normal period of three years and extend until a successor is elected and qualified.
4. The voters of a school district shall elect school board members at large. If, however, the district has been reorganized, board members may be elected at large, by geographical area, or at large by geographical area.
5. An election on a reorganization proposal takes the place of the petition and election requirements of this section. Approval of the reorganization proposal has the same effect as if the approval were by the election provided for in this section.
6. If the qualified electors of a district approve a reduction in the size of the school board, the excess number of members will serve out existing terms until the number approved by the electors has been reached.
7. If the board of a school district has elected to convert its members' terms to four years and has also increased the number of its board members, the board by lot or by some other random selection method shall provide for a combination of initial terms of office not to exceed four years for the new members. The combination must equalize to the greatest extent possible the number and length of terms for old board members and for new members to be elected during the next three election years. The members' terms must be staggered and must expire in even-numbered years.

15.1-09-01.1. School board membership - Prohibition.

If a tribal government has prescribed by tribal law or resolution qualifications for eligibility for public office relating to criminal convictions which are more restrictive than the laws of this state, the qualifications for eligibility for membership of a public school board of a school district located on tribal land may not be less restrictive than the qualifications for eligibility prescribed by tribal law or resolution for public office relating to criminal convictions. For purposes of this section, "tribal land" means that portion of the land within the exterior boundaries of an Indian reservation which is located in the state.

15.1-09-02. School boards - Terms of office.

The term of each elected member of a school board is three years, except when the member is completing the unexpired term of another. The term of office for a school board member begins at the annual meeting in July following the member's election and continues until a successor is elected and qualified.

15.1-09-03. School boards - Changes in terms of office.

1. A school board by resolution may change the terms of office for its members from three to four years. The resolution must provide that upon the expiration of each member's current three-year term, the term of office for that position on the board will become four years. The resolution may provide for the conversion of one position to a two-year term and, thereafter, to a four-year term. If the resolution so provides, the term must be chosen by lot. If as a result of an extension to four years a term would conclude in an odd-numbered year, the resolution must provide for one transitional three-year term before the four-year term commences.
2. If a school board changes its terms of office as provided for in this section:
 - a. References in this title to annual elections mean biennial elections when applied to the board; and
 - b. The election held pursuant to section 15.1-09-31 must be held in even-numbered years.
3. A school board that has converted the terms of its members to four years may revert to three-year terms by passing a resolution providing for the reversion. When the four-year term of each board member holding office on the date of the resolution's passage expires, the term of office for that position becomes three years.

15.1-09-04. Rural members of school board - Definitions.

1. Except as provided in subsection 2:
 - a. At least two members of a school board must be rural members if a district contains six or more sections of land, has a city within its boundaries, and a district population of two thousand or fewer.
 - b. At least one member of a school board must be a rural member if a district contains six or more sections of land, has within its boundaries a city of more than two thousand but fewer than fifteen thousand, and has at least twenty-five families residing on farms outside the corporate limits of the city but within the district and sending children to school in the district.
 - c. If the taxable valuation of agricultural property in the rural area of a district containing a city is greater than the taxable valuation of the urban area, the majority of the members of the school board must be rural members.
 - d. If the variance in population between the geographic voting areas of a school district is greater than ten percent, all qualified voters in the district may vote for each school board candidate.
2. A reorganization plan under chapter 15.1-12 may provide for school board membership requirements that are different from those in subsection 1.
3. For purposes of this section, a rural school board member is one who resides on a farm outside the corporate limits of a city or one who resides within a city that according to the latest federal census has a population of two hundred or fewer and is located within a district that has four or more incorporated cities.
4. For purposes of this section:
 - a. "Agricultural property" means property located outside the limits of an incorporated city and zoned agricultural.
 - b. "Rural" means outside the limits of an incorporated city.

15.1-09-05. School board - Vacancies - Appointments.

1. The business manager of a school district shall notify the county superintendent that a vacancy exists on the school board.

2. The board of a school district shall fill by appointment or special election any vacant seat on the board. The term of an individual selected by appointment or special election to fill a vacancy extends until a successor is elected and qualified at the next annual election. If a school board fails to fill a vacancy by appointment or fails to call a special election to fill a vacancy within sixty days from the time the vacancy occurred, the county superintendent shall call a special election to fill the vacancy. The election must be conducted in the same manner as the annual school district election.
3. If a vacancy reduces the membership of a school board to less than a quorum, the state board of public school education shall appoint to the school board as many individuals as necessary to achieve a quorum. The school board then shall fill the remaining vacancies. After the vacancies have been filled, any individual appointed by the state board shall resign and the school board shall fill the vacancy in accordance with this section. After resigning, the individual who had been appointed by the state board may be reappointed by the school board to fill the vacancy.
4. A vacancy may be declared for any reason set forth in section 44-02-01.
5. The business manager shall certify any appointment made under this section to the county superintendent of schools.

15.1-09-06. School board members - Compensation.

Each school board shall set a level of compensation for services payable to its members. 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.

15.1-09-06.1. School board membership - Suspension.

Upon the filing of a petition under chapter 44-11 for removal by the governor, the governor, in consultation with the superintendent of public instruction, may suspend a member of a school board pending the results of an audit in accordance with section 54-10-15.

15.1-09-07. School district election - Conduct.

Unless otherwise provided by law, a school district election must be conducted and the votes must be canvassed in the same manner as in the election of county officers.

15.1-09-08. School district elections - Candidate filings.

An individual seeking election to the board of a school district shall prepare and sign a document stating the individual's name and the position for which that individual is a candidate. A candidate shall also file a statement of interests as required by section 16.1-09-02. Whether or not the election is held in conjunction with a statewide election, all statements of interest must be filed with the school district business manager, or mailed to and in the possession of the business manager, by four p.m. of the sixty-fourth day before the election. A candidate shall also file a campaign contribution statement as required by section 16.1-08.1-02.3.

15.1-09-09. School district elections - Notice.

Thirty days before the filing deadline for candidate names to be printed on the ballot, an official notice of this deadline must be published in the official newspaper of the city or county. At least fourteen days before the date of an annual or special school district election, the school board shall publish a notice in the official newspaper of the district stating the time and place of the election and the purpose of the vote. If a school board agrees to hold the election in conjunction with a primary election, the deadline for giving notice of the school district election and the purpose of the vote must meet the publishing requirements of the county. The governing body of the city of Fargo shall publish notice with respect to Fargo school district elections.

15.1-09-10. School district elections - Form of notice.

A notice for the election of school board members must state the purpose for the election, the date of the election, and the time at which the polls will open and close.

15.1-09-11. School district elections - Preparation of ballots.

1. At least forty days before the election, the business manager shall prepare and cause to be printed, or otherwise uniformly reproduced, an official ballot containing the names of all individuals who have indicated their intent to be candidates by meeting the provisions of section 15.1-09-08. The business manager shall notify the candidates as to the time and place of the drawing for position on the ballot.
2. The ballot must be nonpartisan in form and include:
 - a. The words "official ballot" at the top;
 - b. The name of the school district;
 - c. The date of the election;
 - d. The number of persons to be elected to each office; and
 - e. Below the list of candidates for each office, blank spaces in which names not printed on the ballot may be written.

15.1-09-12. School district elections - Poll hours.

The school board shall determine the time at which polls must open and close for school district elections. Polls may open at any time after seven a.m. and must be open by eleven a.m. Polls must remain open until seven p.m. and may remain open until eight p.m. In Fargo school district elections, polls must open and close at the times required for city elections.

15.1-09-13. Election precincts - Polling places - Election officials.

1. At least thirty-five days prior to the annual election, the board of each school district shall designate one or more precincts for the election. The board shall arrange the precincts in a way that divides the electors of the district as equally as possible.
2. At least thirty-five days prior to the annual election, the board of each school district shall designate one or more polling places for each precinct. The board shall locate the polling places as conveniently as possible for the voters in the precinct. Once established by the board, a polling place must remain a polling place for a precinct until it is changed by subsequent action of the board.
3. For school board elections not held in conjunction with county elections, the board shall appoint two election judges and two election clerks for each polling place. Before opening the polls, the judges and clerks shall take an affirmation or oath to perform their duties according to law and to the best of their ability. The affirmation or oath may be administered by any officer authorized to administer oaths or by any of the judges or clerks.
4. For school board elections held in conjunction with county elections, the county election boards shall administer the election in the same manner as the county or state election.

15.1-09-14. School district election - Vote tally.

Upon the closing of the polls, the judges shall count and canvass the votes for each office. At the conclusion of the canvass of votes on election night, the judges and clerks of the election shall sign the returns and file them with the business manager of the school district. However, if the election is held under an agreement with a city or county pursuant to sections 15.1-09-22 and 15.1-09-24, the returns must be canvassed and the winners declared as set out in the agreement.

15.1-09-15. School district election - Declaration of winner.

On the thirteenth day after the election, the school board shall meet to canvass all election returns and shall declare the result of an election and, in the case of a tie, within three days from the determination of a winner. However, if the election is held under an agreement with a city or

county pursuant to sections 15.1-09-22 and 15.1-09-24, the returns must be canvassed and the winners declared as set out in the agreement. The individual receiving the highest number of votes for an office must be declared elected. The board shall record the result of the election.

15.1-09-16. School district election - Tie breaker.

If the election results in a tie, the business manager of the district shall notify, in writing, the candidates between whom the tie exists. Within three days after the canvass of the election by the school board, at a time agreed upon by the candidates, the election must be decided in the presence of the judges and clerks of the election, by a drawing of names. A candidate involved in a tie vote may withdraw the candidate's name from consideration if the candidate is willing to sign a statement to that effect in the presence of and witnessed by the filing officer of the election. If no candidates remain, the office is to be filled according to the rules of filling an office when a vacancy exists. The school district business manager shall make and keep a record of the proceedings.

15.1-09-17. Notification of elected individuals - Notice to county superintendent of schools.

Within three days after the canvass by the school board for a school district election, the business manager of the school district shall provide to each elected individual written notice of the individual's election and of the duty to take an affirmation or oath of office. Within ten days after the canvass by the school board, the business manager shall certify the individuals elected and their terms to the county superintendent of schools.

15.1-09-18. School district election - Absentee ballots - Recounts.

Absentee ballots must be available in any school district election in accordance with chapter 16.1-07. Section 16.1-16-01 applies to school district elections, except:

1. The members of the school board not subject to a recount and not disqualified under subdivision c of subsection 2 of section 16.1-05-02 shall perform the duties of the recount board;
2. The school district business manager shall perform the duties of the county auditor when the election is not combined with the county;
3. The school board takes the place of the county canvassing board; and
4. All expenses of the recount must be paid as provided in section 15.1-09-21.

15.1-09-19. Duties of election officials - Other applicable statutes.

Sections 16.1-08.1-03.3, 16.1-10-01, 16.1-10-06, 16.1-10-06.1, 16.1-10-07, 16.1-10-08, 16.1-13-22, 16.1-13-23, 16.1-13-30, 16.1-15-01, 16.1-15-04, and 16.1-16-04 apply to elections held under sections 15.1-09-09 and 15.1-09-11.

15.1-09-20. Election officials - Compensation.

Election officials at school district elections are entitled to receive compensation as provided for election officials in section 16.1-05-05. The board of a school district holding the election shall provide for the compensation from school district funds.

15.1-09-21. School district elections - Expenses.

A school district is responsible for the payment of all expenses incurred as a result of a school district election.

15.1-09-22. School boards - Annual elections - Poll books.

1. The board of a school district shall hold an election each year between April first and June thirtieth to fill all vacancies, including those caused by the expiration of terms of office.
2. Upon resolution of the school board, the annual election may be held in conjunction with the regular election of a city, as required by state law or by the home rule powers of the city, provided the city is located wholly or partially within the school district. The

school board may agree with the governing body of the city to share election costs and responsibilities, including those associated with election personnel, the printing of election materials, the publishing of legal notices, and the use of poll books.

3. If a school board holds its election in conjunction with a city, references in this chapter to the date of a school board election mean the date of the applicable city election.
4. If a school board holds its election in conjunction with a city and only one set of poll books is used, the set must reference the voter's eligibility to vote in the city election, in the school district election, or both.

15.1-09-23. School boards - Special elections.

In addition to the annual election, a special election may be held at any time and for any lawful purpose, if approved by the school board.

15.1-09-24. School boards - Sharing of election expenses.

If a school district election is held in conjunction with a primary election, the board of the school district may agree with the governing body of the county or counties in which the district is located to share election costs and responsibilities, including those associated with a canvassing board, election personnel, the printing of election materials, the publishing of legal notices, and the use of poll books. Each board of a school district that enters into an agreement with the county must notify the county auditor, in writing, at least sixty-four days before the election of the offices to be filled at the election and any measures to appear on the ballot.

15.1-09-25. School board members - Affirmation or oath of office.

An individual elected as a member of or appointed to a school board shall take and file with the school district business manager an affirmation or oath of office within ten days after receiving notice of the election or appointment and before commencing duties. If the individual refuses to take the affirmation or oath of office required by this section, the individual's action is deemed to be a refusal to serve and a failure to qualify for the office pursuant to section 44-02-01.

15.1-09-26. Affirmation or oath of office - Administration.

Any member of a school board may administer an affirmation or oath of office required of school board members, required of school district personnel, or required in any school-related matter.

15.1-09-27. Organization of school board - Election of president.

At the annual meeting, school board members shall elect from among themselves a president to serve for one year.

15.1-09-28. School board president - Duties.

The president shall preside at all meetings of the school board, appoint all committees subject to approval by the board, provide authorization for the issuance of negotiable instruments, and perform other acts required by law. A vice president may be elected by the board to serve in the absence of the president at any meeting.

15.1-09-29. School board - Quorum - Majority vote.

The board of a school district consists of the members elected according to the provisions of this chapter. A majority of the board constitutes a quorum. The agreement of a majority of those members present is necessary for the transaction of any business.

15.1-09-30. School boards - Meetings - Pledge of allegiance.

1. Each school board shall hold an initial meeting during the month of July following the annual election. The president of the school board shall select a meeting date that is convenient to the other board members and shall provide board members with written notice of the meeting.

2. Once during each month thereafter, a board shall hold a regular meeting for the transaction of business. The board of any school district having only one-room and two-room schools may meet as often as the board deems necessary, but not less than four times in each year.
3. Special meetings may be called by the president or by any two members of a board. Written notice of a special meeting must be given to each member of a board.
4. At the beginning of each regularly scheduled school board meeting, board members must be given the opportunity to participate in a voluntary recitation of the pledge of allegiance.
5. The attendance of a board member at any meeting, without objection, constitutes a waiver of the notice requirement for that member.
6. A board of a school district operating under an academic cooperative agreement approved by the superintendent of public instruction may participate in multiboard meetings in addition to, instead of, or in conjunction with the regular board meetings required by this section. Multiboard meetings must be for the purpose of pursuing joint academic or cooperative activities and must be held at the times and locations agreed to by the presidents of the participating boards. In addition to any other requirements set forth in section 44-04-20, the presidents of each school board shall ensure that notice of each multiboard meeting in which the school board will participate is published in the local newspapers of general circulation at least one week before the meeting date.
7. At the request of a resident of the school district, a school district shall record the school district's regular or special meeting, archive the recording, and make the recording available to the public. A request must be submitted to the school district no later than seven days prior to the meeting. A school district shall publish on its website a link to the recording of a board meeting. The recording must be available on the school districts' website for no fewer than three months from seven days after the meeting. This section does not apply to executive sessions nor work sessions held as part of a regular or special meeting.
8. If a school district provides a livestream of a regular or special meeting of the board, the school district shall notify the public of the location of the link to access the livestream.

15.1-09-31. School board proceedings - Publication.

Every two years, at the time of a school district's annual election of board members, the electors of the district shall determine whether a record of the board proceedings must be published in the official newspaper of the district. If a majority of the electors voting on the question approve the publication, the school district business manager shall provide for publication of the school board proceedings, including an itemized list of obligations approved for payment. If appropriate, the business manager shall require that the newspaper publishing the board proceedings indicate that the published proceedings are subject to review and revision by the board. The business manager shall ensure that the proceedings are published within a reasonable time after each board meeting. A vote to approve the publication is effective for a period of two years or until disapproved at a succeeding school district election.

15.1-09-32. School board members - Attendance at workshop.

Within one year of assuming office, each newly elected school board member shall attend an inservice training workshop hosted by the North Dakota school boards association or its designee. The workshop must include presentations on the role of a school board member, the duties of a school board, and education finance.

15.1-09-33. School board - Powers.

The board of a school district may:

1. Establish a system of free public schools for all children of legal school age residing within the district.

2. Organize, establish, operate, and maintain elementary, middle, and high schools.
3. Have custody and control of all school district property and, in the case of the board of education of the city of Fargo, have custody and control of all public school property within the boundaries of the Fargo public school district and to manage and control all school matters.
4. Acquire real property and construct school buildings and other facilities.
5. Relocate or discontinue schools and liquidate the assets of the district as required by law; provided no site may be acquired or building constructed, or no school may be organized, established, operated, maintained, discontinued, or changed in location without the approval of the state board of public school education if outside the boundary of the district.
6. Purchase, sell, exchange, and improve real property.
7. Lease real property for a maximum of one year except in the case of:
 - a. A career and technical education facility constructed in whole or in part with financing acquired under chapter 40-57, which may be leased for up to twenty years; or
 - b. A lease for the installation of a wireless telecommunications facility, which may be leased for up to twenty years.
8. Subject to chapter 32-15, exercise the power of eminent domain to acquire real property for school purposes.
9. Purchase, sell, exchange, improve, and lease for up to one year equipment, furniture, supplies, and textbooks.
10. Recruit or contract with others to recruit homes and facilities which provide boarding care for special education students.
11. Provide dormitories for the boarding care of special education students.
12. Insure school district property.
13. Independently or jointly with other school districts, purchase telecommunications equipment or lease a telecommunications system or network.
14. Provide for the education of students by another school district.
15. Contract with federal officials for the education of students in a federal school.
16. Prescribe courses of study in addition to those prescribed by the superintendent of public instruction or by law.
17. Adopt rules regarding the instruction of students, including their admission, transfer, organization, grading, and government.
18. Join the North Dakota high school activities association and pay membership fees.
19. Adopt alternative curricula for high school seniors who require fewer than four academic units.
20. Contract with, employ, and compensate school district personnel.
21. Contract with and provide reimbursement for the provision of teaching services by an individual certified as an instructor in the areas of North Dakota American Indian languages and culture by the education standards and practices board.
22.
 - a. Suspend school district personnel;
 - b. Delegate to the superintendent of the district the authority to suspend school district personnel, except as provided for in section 15.1-15-10; or
 - c. In the case of a district that does not employ a superintendent, delegate to the individual charged with administering the district the authority to suspend school district personnel, except as provided for in section 15.1-15-10.
23. Dismiss school district personnel.
24. Participate in group insurance plans and pay all or part of the insurance premiums.
25. Contract for the services of a district superintendent, provided that the contract, which may be renewed, does not exceed a period of three years.
26. Contract for the services of a principal.
27. Employ an individual to serve as the school district business manager or contract with any person to perform the duties assigned to a school district business manager by law.
28. Dismiss a school district business manager for cause without prior notice.

29. Dismiss a school district business manager without cause with thirty days' written notice.
30. Defray the necessary and contingent expenses of the board.
31. Levy a tax upon property in the district for school purposes, as permitted in accordance with chapter 57-15.
32. Amend and certify budgets and tax levies, as provided in title 57.
33. Pay dues allowing for the board to hold membership in city, county, state, and national organizations and associations.
34. Designate, at its annual meeting, a newspaper of general circulation as the official newspaper of the district.
35. Authorize schools within the district to display the ten commandments with a display of other historical documents in the school and in a classroom.

15.1-09-33.1. School board authority - Payment of signing bonuses.

1. The board of a school district may offer a signing bonus to an individual who:
 - a. Is licensed by the education standards and practices board or approved by the education standards and practices board;
 - b. Has signed a contract of employment in the school district; and
 - c. Has never been employed in the newly assigned role by the board of the school district.
2. The board of a school district may pay to the individual the signing bonus authorized by subsection 1 in:
 - a. One lump sum upon the individual signing a contract of employment; or
 - b. Installments over a period of time not to exceed five years from the date the individual signed a contract of employment.
3. A signing bonus paid under this section:
 - a. Is in addition to any amount payable under a negotiated teachers' contract.
 - b. May not be included in the district's negotiated salary schedule.
 - c. May not be included as salary for continuing contract purposes.
 - d. May not be paid until the individual is licensed and qualified for the newly assigned role by the education standards and practices board.
 - e. May not be used for an individual employed the prior year in the same role by another school district in the state until the individual has been employed in the district for two years.

15.1-09-33.2. Continuing education - Payment - Directives.

A school board's right to reimburse teachers for the cost of continuing education activities undertaken in connection with the Every Student Succeeds Act of 2015 may not be contractually curtailed.

15.1-09-33.3. Student teachers - Provision of stipend.

The board of a school district may provide a stipend to a student teacher assigned to a school in the district.

15.1-09-33.4. Student misconduct - Prohibition against participation in extracurricular activities. (Effective through December 31, 2025)

1. The board of a school district may prohibit a student from participating in any extracurricular activity if:
 - a. The student has pled guilty to or been convicted of a criminal offense and sentenced under section 12.1-32-02.1 or pled guilty or been convicted of an offense specified in subsection 1 of section 12.1-32-09.1;
 - b. The student has:
 - (1) An order prohibiting contact issued against the student at the request of another student or employee of the school under section 12.1-31.2-02;

- (2) A disorderly conduct restraining order issued against the student at the request of another student or employee of the school under section 12.1-31.2-01, except a temporary restraining order under subsection 4 of section 12.1-31.2-01;
 - (3) A protection order issued against the student at the request of another student or employee of the school, except a temporary protection order under section 14-07.1-03; or
 - (4) Any other order issued against the student prohibiting contact with a student or employee of the school which is signed by a district judge or a judicial referee within a delinquency or criminal case;
 - c. The principal of the school receives information pertaining to an offense or order included under this section as provided in section 27-20.2-21; or
 - d. The victim of the offense or the subject of the order notifies the principal of the offense or order.
2. For purposes of this section, a representative of the juvenile court system may notify the principal of a school regarding the existence of files or records of the juvenile court pertaining to a student of the school which are open to inspection by the principal under section 27-20.2-21.

Student misconduct - Prohibition against participation in extracurricular activities. (Effective after December 31, 2025)

1. The board of a school district may prohibit a student from participating in any extracurricular activity if:
- a. The student has pled guilty to or been convicted of a criminal offense and sentenced under section 12.1-32-02.1 or pled guilty or been convicted of an offense specified in subsection 1 of section 12.1-32-09.1;
 - b. The student has:
 - (1) A civil protection order issued against the student at the request of another student or employee of the school under chapter 14-07.7; or
 - (2) Any other order issued against the student prohibiting contact with a student or employee of the school which is signed by a district judge or a judicial referee within a delinquency or criminal case;
 - c. The principal of the school receives information pertaining to an offense or order included under this section as provided in section 27-20.2-21; or
 - d. The victim of the offense or the subject of the order notifies the principal of the offense or order.
2. For purposes of this section, a representative of the juvenile court system may notify the principal of a school regarding the existence of files or records of the juvenile court pertaining to a student of the school which are open to inspection by the principal under section 27-20.2-21.

15.1-09-33.5. School board - Immunity from liability.

The superintendent of public instruction, school districts, schools, school boards and individual school board members, governing boards and individual governing board members, administrators, principals, teachers, and any other school district employed personnel are immune from any liability for damages resulting from a school's decision to display the ten commandments or permit students to recite the pledge of allegiance under section 15.1-09-33.

15.1-09-34. Contracts by school boards - Bids - Penalty.

1. Except as provided in this section, the board of a school district may not enter a contract involving the expenditure of an aggregate amount greater than fifty thousand dollars unless the school board has given ten days' notice by publication in the official newspaper of the district, received sealed bids, and accepted the bid of the lowest responsible bidder. This section does not apply to contracts for:
- a. The personal services of district employees.
 - b. Textbooks and reference books.

- c. Articles not sold on the open market.
 - d. Patented, copyrighted, or exclusively sold devices or features required to match articles already in use.
 - e. Patented, copyrighted, or exclusively sold articles so distinctive that only one brand can be purchased.
 - f. Building construction projects under chapter 48-01.2.
 - g. School transportation services purchased under section 15.1-30-11.
 - h. Vehicle fuel purchased under section 15.1-09-34.1.
 - i. Heating fuel purchased under section 15.1-09-34.1.
 - j. The purchase of a used motor vehicle, including a schoolbus, motorbus, or van, intended primarily for the transportation of students.
 - k. Cooperative purchases with the office of management and budget under chapter 54-44.4.
 - l. The purchase of products from prison industries under chapter 12-48.
 - m. The purchase of products from work activity centers under chapter 25-16.2.
 - n. Cooperative purchases made pursuant to a joint-powers agreement under chapter 54-40.3.
 - o. Building materials required for district students enrolled in a course to create home construction projects sold on the open market, the revenue of which is used to cover the cost of the building materials for use in the course.
2. For purposes of this section, a "used motor vehicle" means a motor vehicle that has been previously owned or leased and which has an odometer reading in excess of eighteen thousand miles [28967 kilometers].
 3. A board member who participates in a violation of this section is guilty of a class B misdemeanor.

15.1-09-34.1. Vehicle and heating fuel - Purchases.

At least once each year, the board of a school district shall publish in the official newspaper of the district information regarding the registration of vehicle fuel vendors and heating fuel vendors. Except as otherwise provided in this section, the board shall purchase vehicle fuel and heating fuel only after seeking written quotes from all vendors who registered with the district for that school year.

15.1-09-35. Reports by school boards on conditions of schools.

Upon the conclusion of each school year, the board of a school district shall:

1. Prepare a report regarding the condition of all schools in the district, including their financial condition and the educational progress of students enrolled in each school;
2. Forward a copy of the report to the county superintendent of schools; and
3. Publish in the official newspaper of the school district that portion of the report which deals with the financial condition of each school.

15.1-09-36. School board - Authority over student fees.

1. A school board may not charge a fee for textbooks or other items necessary for completion of a specific course required for grade advancement or graduation.
2. A school board may:
 - a. Require that a student pay a security deposit for the return of textbooks, materials, supplies, or equipment.
 - b. Assess a student a use charge if a textbook or other item covered under subsection 1 has received undue wear.
 - c. Require that a student furnish personal or consumable items.
 - d. Require that a student pay an admission fee or other charges for extracurricular or noncurricular activities if the student's attendance is optional.
 - e. Require that a student pay a fee or a premium for any authorized student health and accident benefit plan.

- f. Require that a student pay a fee for personal athletic equipment and apparel; provided the board shall allow a student to use the student's own equipment and apparel if it meets reasonable health and safety standards established by the board.
 - g. Require that a student pay a fee in any program which generates a product that becomes the personal property of the student.
 - h. Require that a student pay a fee for behind-the-wheel driver's education instruction.
 - i. Require that a student pay a fee for goods, including textbooks, and services provided in connection with any postsecondary level program or any program established outside regular elementary, middle school, or secondary school programs, including career and technical programs, and adult or continuing education programs.
 - j. Require that a student pay a fee for the use of a musical instrument owned or rented by the school district, provided that the total fee payable by the student for a school year does not exceed the annual rental cost to the district or the annual depreciation plus actual maintenance cost for the instrument.
 - k. Require that a student pay any other fees and charges permitted by statute.
3. A board may waive any fee if a student or the student's parent or guardian is unable to pay the fee.
 4. A board may not deny or abridge a student's rights or privileges, including the receipt of grades and diplomas, because of the nonpayment of fees. A board, however, may withhold a student's diploma for failure to pay for costs incurred by the student's own negligence or choice, including fines for damaged textbooks and school equipment, library fines, and materials purchased from the school at the option of the student.
 5. This section does not preclude the operation of a school store where students may purchase school supplies and materials.
 6. If a board charges fees not authorized by law and refuses to discontinue the charges when directed to do so by the superintendent of public instruction, the superintendent shall withhold the state aid payments to which the district is entitled for each student charged an unauthorized fee.

15.1-09-37. Duties of school board - Postsecondary instructional programs - Fees.

Repealed by S.L. 2001, ch. 161, § 37.

15.1-09-38. Duties of school board - Employment of relatives.

Repealed by S.L. 2003, ch. 151, § 2.

15.1-09-39. Districts in bordering states - Contract.

1. Notwithstanding any other provision of law, the board of a school district in this state may contract with the board of a school district in another state for the joint operation and maintenance of school facilities and for joint activities, if the districts are contiguous. To be valid, the contract must be approved by the superintendent of public instruction and by a majority of the qualified electors residing in the district.
2. In assessing the contract, the superintendent shall consider the district's enrollment, its valuation, and its longevity.
3. If the superintendent approves the contract, the board shall submit the contract to the electorate of the district, for approval, at an annual or a special election.
4. The board shall publish notice of the election in the official newspaper of the district at least fourteen days before the election. The notice must include a statement regarding the purpose of the election and the terms of the contract.
5. On the ballot, the board shall seek the voters' permission to execute the proposed contract, as approved by the superintendent of public instruction.

6. If the voters approve the execution of the contract, the board may levy and collect taxes, as permitted in accordance with chapter 57-15, to carry out the contract pursuant to law.
7. If a district that is a party to a contract under this section dissolves, any district to which the land of the dissolved district is attached shall assume the contractual responsibilities.

15.1-09-40. Sharing of levied taxes - Contract.

The boards of two or more school districts may contract to share levied taxes in all or a portion of their respective districts. The rate of taxes to be levied on any property in the joint taxing area or district is the rate of tax provided for in the contract, not exceeding any levy limitations under chapter 57-15. The auditor of each county in which all or a portion of a contracting district is located shall fix and levy taxes on that portion of the property which is described in the contract and is located in the county at the rate set by the contract.

15.1-09-41. School board authority - Reward for destruction of school property.

The board of a school district may offer and pay a reward to any person who furnishes information leading to the apprehension and conviction of one appropriating or destroying property or equipment belonging to the district.

15.1-09-42. Educational meetings - Attendance by school district personnel.

Repealed by S.L. 2005, ch. 167, § 36.

15.1-09-43. Purchase of schoolbus - Payment period.

The board of a school district may purchase a bus body, a chassis, or a complete bus, provided the body, chassis, or complete bus meets standards provided by section 39-21-27.1. A board may use money in its general fund to purchase a bus body, a chassis, or a complete bus on an installment plan, provided the plan does not extend beyond six years.

15.1-09-44. Schoolbuses - Use of nonprofit organizations.

The board of a school district may make a schoolbus available to a nonprofit organization for use in conjunction with the organization's activities. The board shall negotiate the terms of usage with the organization. The terms must address rental charges and insurance coverage. The driver of a schoolbus used by a nonprofit organization under this section must satisfy the requirements for a schoolbus driver set forth in section 15.1-07-20.

15.1-09-45. Storage facilities for schoolbuses.

The board of a school district may lease for purchase, purchase, or construct a storage facility for schoolbuses upon advertised bids as provided in section 15.1-09-34. For these purposes, the board may use money in the district's general fund or building fund provided the money is not otherwise obligated.

15.1-09-46. School district census.

Repealed by S.L. 2007, ch. 163, § 57.

15.1-09-47. Board of education of city of Fargo - Taxing authority.

The board of education of the city of Fargo may levy taxes within the requirements or limitations of this title and title 57.

15.1-09-48. Board of education of city of Fargo - Tax collection.

1. The board of education of the city of Fargo may levy taxes within the boundaries of the Fargo public school district and cause the taxes to be collected in the same manner as other city taxes, provided the taxes meet the requirements or limitations of this title and title 57. The business manager of the board of education shall certify the rate for each purpose to the city auditor in time to be added to the annual tax list of the city.

2. The city auditor shall calculate and extend upon the annual assessment roll and tax list any tax levied by the board of education. The tax must be collected in the same manner as other city taxes.
3. If the city council fails to levy any tax for city purposes or fails to cause an assessment roll or tax list to be made, the board of education may make an assessment roll and tax list and submit the roll to the city auditor with a warrant for the collection of the tax. The board of education may cause the tax to be collected in the same manner as other city taxes are collected or as otherwise provided by resolution of the board.

15.1-09-49. Board of education of city of Fargo - Taxes for buildings.

The amount to be raised for teacher salaries and contingent expenses must be such only as together with the public money coming to the city from any source is sufficient to establish and maintain efficient and proper schools for students in the city. The tax for purchasing, leasing, or improving sites and the building, purchasing, leasing, enlarging, altering, and repairing of schools may not exceed in any one year fifteen mills on the taxable valuation of property in the school district. The board of education may borrow, and when necessary shall borrow, in anticipation of the taxes to be raised, levied, and collected.

15.1-09-50. Board of education of city of Fargo - Powers.

In addition to the powers granted to all school boards by section 15.1-09-33, the board of education of the city of Fargo has the power and duty:

1. To organize, establish, and maintain schools within the boundaries of the Fargo public school district; to change and discontinue the schools; and to liquidate the assets of the discontinued schools, as authorized by the state board of public school education.
2. To lease houses or rooms for school purposes, lease lots or sites for schools, and fence real property.
3. To build, enlarge, alter, improve, and repair schools and appurtenances upon lots or sites now owned or leased for school purposes.
4. To provide, sell, exchange, improve, and repair school apparatus, books for indigent students, and appendages.
5. To provide fuel and other supplies for the schools.
6. To have the custody and safekeeping of the schools, books, furniture, and appurtenances and to see that local ordinances regarding schools are observed.
7. To compensate teachers out of the money appropriated and provided by law for the support of the public schools within the boundaries of the district so far as the same is sufficient, and to pay any remainder due from the money raised as authorized by this chapter.
8. To have the control and management of the public schools within the boundaries of the district and from time to time to adopt rules for their good order, prosperity, and utility.
9. To prepare and report to the mayor and the city council ordinances and regulations necessary for the protection, safekeeping, and care of the schools, lots, sites, and appurtenances and all the property belonging to the city, connected with and appertaining to the schools, and to suggest proper penalties for the violation of ordinances and regulations.

15.1-09-51. Board of education of city of Fargo - School property.

1. The title to all schools, sites, lots, furniture, books, apparatus, and appurtenances, belonging to the city, and used for school purposes, under the control of the board of education are vested in the city of Fargo for the use of the schools. While used for or appropriated to school purposes, the same may not be:
 - a. Levied upon or sold by virtue of any warrant, execution, or other process;
 - b. Subject to any judgment or lien; or
 - c. Subject to taxation for any purpose.
2. The city in its corporate capacity is competent to accept and dispose of any real or personal estate transferred to it by gift, grant, bequest, or devise, for the use of the

public schools of the city, whether the property is transferred to the city or to any person for the use of the schools.

15.1-09-52. Board of education of city of Fargo - Ownership of real property.

Whenever any real property is purchased by the board, the transfer or grant and conveyance of the property must be taken to the "city of Fargo for the use of the schools" and whenever any sale is made by the board, it must be so resolved and placed upon the records of the board. The conveyance must be executed, in the name of the city of Fargo, by the president of the board and attested to by the business manager. The president and the business manager may execute conveyances upon a sale or exchange, with or without full covenants or warranty, on behalf of the city.

15.1-09-53. School district employees' group health plans.

In contracting for a school district employees' group health plan, the board of a school district shall meet the bidding requirements of section 15.1-09-34. No contract for a school district employees' health plan may be of a duration greater than six years.

15.1-09-54. School district technology consortium - Authority to borrow money.

1. A school district technology consortium formed under chapter 54-40.3 may borrow money for instructional technology acquisition provided:
 - a. The outstanding principal borrowed by a consortium under this section does not exceed one hundred seventy-five thousand dollars;
 - b. The loan repayment period does not exceed ten years;
 - c. The loan is approved in writing by the board of each school district participating in the consortium;
 - d. The loan is:
 - (1) Approved by a majority of the eligible electors residing in each school district participating in the consortium, as evidenced by their signatures on a petition clearly stating the purpose of the loan, the amount of the loan, and its terms of repayment, and filed with the superintendent of public instruction; or
 - (2) Approved by a majority of each participating school district's electors voting on the question at a regular school district election or at a special election called by the board; and
 - e. The loan is approved by the superintendent of public instruction.
2. The superintendent of public instruction shall adopt rules setting forth the criteria for loan approval. The superintendent of public instruction may not approve a loan under this section if the superintendent determines that the instructional technology acquisition is not compatible with the statewide information technology plan.

15.1-09-55. School district superintendent - Joint employment - Accreditation.

The superintendent of public instruction may not impose through the accreditation process any penalties or sanctions on a school district for employing a superintendent jointly with one or more other districts. The superintendent may not require, through the accreditation process, that an employee of a school district having fewer than one hundred students in high school spend more than thirty-three percent of the employee's time performing the duties of a school principal if the school district employs a superintendent jointly with one or more other districts.

15.1-09-56. Student financial institution.

A school board may establish, maintain, and supervise a student financial institution which is not subject to section 6-02-01, 6-02-03, 6-03-67.1, or 6-06-05 or any other statute or rule that regulates banks, other financial institutions, or currency exchanges. To qualify as a student financial institution, the student financial institution must be operated as part of a high school educational program under guidelines adopted by the school board, be advised on a regular basis by one or more state-chartered or federally chartered financial institutions including credit

unions, but not owned or operated by a financial institution, be located on school premises and have as customers only students enrolled in, or employees of, the school of which it is located, and have a written commitment from the school board guaranteeing reimbursement of any depositor's funds lost due to insolvency of the student financial institution. Funds of a student financial institution that meet the requirements of this section are not school district or other public funds for purposes of any state law governing the use or investment of school district or other public funds. For purposes of borrowing money, cashing checks, and taking deposits concerning the operation of a student financial institution, the obligations of a minor have the same force and effect as though they were the obligations of a person over the age of majority.

15.1-09-57. Licensure to teach - Course area or field - Request for exception - Report.

1. If the board of a school district or of a nonpublic school is unable to fill a particular position by recruiting or assigning an individual who is licensed to teach in that particular course area or field, the school board may fill the position with an individual who is not licensed to teach in that particular course area or field, provided the individual:
 - a. Is licensed to teach by the education standards and practices board or is approved to teach by the education standards and practices board;
 - b. Holds at least a minor or a minor equivalency in the course area or field in which the individual seeks to teach; and
 - c. Has received a temporary exception under this section.
2. The education standards and practices board shall adopt rules governing the issuance of temporary exceptions under this section. Except for a case of sudden and unexpected vacancy occurring during the school calendar, the rules must require consideration of a school board's efforts to fill a particular position and the school board's efforts to explore alternative methods of education delivery to the students. The rules must also require that the individual submit a plan for a course of study which will enable the individual to obtain a major or a major equivalency in the course area or field in which the individual seeks to teach.
3. An exception granted under this section is valid only through the conclusion of the school year in which the request for exception is submitted to the education standards and practices board. The board may extend the exception by one-year increments, provided the individual demonstrates successful completion of at least one-third of the total course of study prior to each requested extension.
4. At the conclusion of each school year, the education standards and practices board shall file a report with the legislative council. The report must cite all requests for exceptions under this section received by the board during the school year and must include the board's response to each request and a brief description of the board's rationale.

15.1-09-58. Four-year old program - Authorization - Support.

The board of a school district may establish a four-year old program and, provided the program is approved by the department of health and human services in accordance with section 50-11.1-21, may support that program with:

1. Local tax revenues, other than those necessary to support the district's kindergarten program and the provision of elementary and high school educational services;
2. State moneys specifically appropriated for the program;
3. Federal funds specifically appropriated or approved for the program; and
4. Gifts, grants, and donations specifically given for the program.

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

1. At least once every six years, each school district shall work with its commercial property insurance carrier for the purpose of ensuring that:
 - a. All school district buildings and facilities are properly identified and accurately valued; and

- b. The contents of all school district buildings and facilities are properly inventoried and accurately valued.
 2. a. If a school district can demonstrate to the satisfaction of the superintendent of public instruction that the district completed the requirements of subsection 1 during the period beginning July 1, 2006, and ending June 30, 2011, the district's six-year requirement for identification and valuation begins on the date that the requirements were met.
 - b. If a school district cannot demonstrate to the satisfaction of the superintendent of public instruction that the district completed the requirements of subsection 1 during the period beginning July 1, 2006, and ending June 30, 2011, the district shall complete the requirements during the 2011-12 school year.
3. Annually, each school district shall review the terms of any insurance policies providing coverage for its buildings, its facilities, and their contents and ensure that the policies are sufficient to provide in full for the repair or replacement of the buildings, its facilities, and their contents, in the event of a loss.
4. Annually, the superintendent of public instruction shall verify that each school district is in compliance with the requirements of this section.

15.1-09-60. School district safety plan - Establishment of school safety plan fund - Approval - Open records exemption.

The board of a school district may develop a school safety plan, in consultation with the qualified electors residing within the district, and establish and maintain a school safety plan fund subject to the limitations in section 57-15-14.2. A school safety plan developed by the board of a school district is exempt from the provisions of section 44-04-18 and section 6 of article XI of the Constitution of North Dakota with respect to aspects of the plan addressing the security of students.

15.1-09-61. Human trafficking and exploitation prevention and awareness education.

1. The board of a school district and the governing board of a school operated by a tribal government shall:
 - a. Adopt a policy regarding human trafficking and exploitation prevention and awareness education for students and faculty. As used in this section, "human trafficking" includes sex trafficking.
 - b. Require schoolwide education addressing human trafficking and exploitation prevention and awareness for all students in grades six, ten, and twelve.
 - c. Offer to parents and legal guardians optional workshops or materials or both to support the education of the child of the parent or legal guardian on personal safety and grooming prevention.
2. The education under this section:
 - a. May be provided by a nonprofit organization specializing in outreach and education on human trafficking and exploitation.
 - b. Must be developmentally appropriate, culturally sensitive, and use best practices.
 - c. Must be provided annually to students.
 - d. May include:
 - (1) Definitions and the nature of human trafficking and exploitation;
 - (2) State laws regarding human trafficking and exploitation;
 - (3) Facts and statistics regarding human trafficking and exploitation in the state and across the United States;
 - (4) The victim profiling tactics of human traffickers;
 - (5) The role of online computer activity and pornography;
 - (6) Methods to identify a potential victim and actions to take following identification of a victim;
 - (7) Information regarding:
 - (a) Force, fraud, and coercion;
 - (b) Grooming;
 - (c) The complexities of abuse, indoctrination, and manipulation;

- (d) The traits of a human trafficking victim;
 - (e) The difference between human trafficking and prostitution; and
 - (f) How human trafficking and exploitation demand is created and which industries influence human trafficking and exploitation; and
- (8) Actionable steps to take against human trafficking and exploitation, including reporting information to the proper authorities.

3. Adjourn