

Fifty-fifth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2173

Introduced by

Senators Freborg, Andrist, O'Connell

Representatives Grosz, Monson

1 A BILL for an Act to amend and reenact sections 15-40.1-09, 15-41-06, 15-47-33, 15-47-33.1,
2 and 15-59-02.1 of the North Dakota Century Code, relating to the days of classroom instruction
3 in each school year; and to repeal sections 15-38-04.1 and 15-47-14 of the North Dakota
4 Century Code, relating to school holidays and North Dakota education association meeting
5 days.

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

7 **SECTION 1. AMENDMENT.** Section 15-40.1-09 of the 1995 Supplement to the North
8 Dakota Century Code is amended and reenacted as follows:

9 **15-40.1-09. Application for payments - Verification and determination of**
10 **payments for high school students - Report of county superintendent of schools -**
11 **Appeal.** Immediately upon the completion of the registration of students at the beginning of
12 each school term and in no event later than September tenth of each year, the business
13 manager of each school district within or without this state which is claiming payments from
14 state funds under the provisions of this chapter shall file with the county superintendent of
15 schools a claim on a form prescribed by the superintendent of public instruction stating the
16 number of students registered in high school and elementary grades for which payments are
17 claimed, and such other information as may be reasonably requested by the superintendent of
18 public instruction. Not later than December first, the superintendent of public instruction shall
19 certify to the office of management and budget a list of the school districts and schools not
20 operated by school districts entitled to payments from state funds, together with the amounts to
21 which the several districts and schools are entitled. Per student aid as provided under sections
22 15-40.1-06, 15-40.1-07, and 15-40.1-08 must be computed on the basis of the previous year's
23 average daily membership less the number of students attending school during the current
24 school year in another district under the provisions of open enrollment or the current year's fall

1 enrollment, whichever provides the greatest payment, for all current grade levels. Adjustments
2 must be made in the subsequent year according to a comparison between the average daily
3 membership for the year for which the adjusted payment is being made and the year preceding
4 the year for which the adjusted payment is being made, whichever is greater, for grade levels
5 that existed in both years. The greater of the two preceding years' average daily membership
6 must be used in computing any adjustment in a district's foundation aid payments. For
7 purposes of this chapter, "average daily membership" ~~shall mean~~ means the total days all
8 students in a given school are in attendance, ~~including days set aside for the North Dakota~~
9 ~~education association convention, plus any three holidays selected from those listed in~~
10 ~~subsections 2 through 10 of section 15-38-04.1 which have been decided upon after~~
11 ~~consultation with the teachers, the total days all students are absent, and the two~~
12 ~~parent-teacher conference days authorized in section 15-47-33, divided by one hundred eighty~~
13 seventy days. School districts educating children of agricultural migratory workers or offering
14 high school summer school programs during the months of June, July, and August shall not be
15 restricted to payments for a one-hundred ~~eighty-day~~ seventy-day school ~~term~~ year.

16 Immediately upon the termination of the school ~~term~~ year and in no event later than July
17 fifteenth of each year, the business manager of each school district within or without this state
18 which has received payments from state funds under the provisions of this chapter shall file with
19 the county superintendent of schools a verified statement of the name, residence, and
20 membership of elementary and high school students as provided for in this section, and number
21 of units of high school work taken by each high school student enrolled during the previous
22 school year. The statement shall be attested to by the county superintendent of schools. The
23 county superintendent shall investigate the validity of the statement and shall determine the
24 residence and other qualifications of each student named in the statement. The county
25 superintendent shall certify to the superintendent of public instruction on or before September
26 first of each year the number of enrolled students in each district in the county for the previous
27 school year upon which any adjustment may be based as provided in this section. If any
28 statement is disallowed in whole or in part, notice of the disallowance and the names of
29 students who are disallowed shall be reported to the superintendent of public instruction and to
30 the district filing the statement. Any district may appeal to the superintendent of public
31 instruction from the determination of the county superintendent of schools on or before

September fifteenth in the year in which the determination is made. The superintendent of public instruction may change or modify the determination of the county superintendent if the evidence submitted by the district warrants a modification. The judgment of the superintendent of public instruction shall be final.

SECTION 2. AMENDMENT. Section 15-41-06 of the North Dakota Century Code is amended and reenacted as follows:

15-41-06. High school courses - Requirements - Credits - Alternative curriculum plans. Four units of high school work must be considered the minimum number of any year from the ninth grade through the twelfth grade. However, students in their fourth year of standard high school coursework may be enrolled in fewer than four units if the students require fewer than four units for graduation and if the school board of their school district of attendance has adopted an alternative high school senior curriculum plan. An alternative high school senior curriculum plan may be adopted by board action, and must contain specifically described criteria under which high school seniors may be enrolled in fewer than four units. An alternative high school curriculum plan of coursework becomes effective only following formal approval by the superintendent of public instruction, and no student is eligible to be enrolled in fewer than four units of coursework in his or her twelfth-grade year unless that student can graduate during that same school year while carrying fewer than four units. A school board is not obligated to adopt an alternative high school senior curriculum plan, but once having adopted such a plan, a district must permit high school seniors satisfying criteria set forth in the plan to be enrolled in fewer than four units in accordance with this section. All unit courses must be taught a minimum of forty minutes a day for at least one hundred ~~eighty~~ seventy days, subject to the provisions of section 15-47-33, except that all natural science courses must exceed forty minutes to such an extent as may be determined by the superintendent of public instruction. In all high schools and in all schools maintaining any of the grades from the ninth to the twelfth and doing high school work, it must be made possible for each grade to complete four units of work each year. The work which is done by ~~pupils~~ students in any school which does not conform to the requirements contained in this section may not be accredited by the superintendent of public instruction through state high school examinations or otherwise.

SECTION 3. AMENDMENT. Section 15-47-33 of the North Dakota Century Code is amended and reenacted as follows:

1 **15-47-33. Length of elementary and secondary school year term.** All elementary
2 and secondary schools in this state shall provide, ~~at least a minimum, the equivalent of one~~
3 hundred ~~eighty~~ seventy days of classroom instruction during each school ~~term~~ year. ~~Any three~~
4 ~~holidays selected from those listed in subsections 2 through 10 of section 15-38-04.1 which~~
5 ~~have been decided upon after consultation with the teachers, any two days, or fractions of days~~
6 ~~not to exceed a total of two days, which are devoted to parent teacher conferences and which~~
7 ~~are selected by the local school board after consultation with the teachers, and any day in~~
8 ~~which classes cannot be held because of acts of God, epidemic, or failure of physical facilities~~
9 ~~must be included in the one hundred eighty days provided for in this section and teachers must~~
10 ~~be paid therefor.~~ Each day of classroom instruction must have a duration of at least seven
11 hours, which includes up to one hour for lunch.

12 **SECTION 4. AMENDMENT.** Section 15-47-33.1 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **15-47-33.1. Modification of public school calendar and schedule with approval of**
15 **the superintendent of public instruction.** The school board of a public school district may
16 apply to the superintendent of public instruction for approval of a pilot program in which the
17 school calendar of the district is modified so that fewer than one hundred ~~eighty~~ seventy days
18 of classroom instruction would be provided by the district during the course of a school ~~term~~
19 year. The superintendent may approve pilot programs which are designed to evaluate the
20 advantages and disadvantages of modifications in the traditional school calendar through
21 increased use of school facilities and which the superintendent finds to offer educational
22 opportunities equivalent to those offered in a ~~one hundred eighty day~~ one hundred-seventy-day
23 school program. Any district which proposes to operate a pilot program under this section shall
24 specify in its application the minimum number of days of school and the comparable
25 instructional time for which its ~~pupils~~ students would be enrolled during any school year. Upon
26 approval by the superintendent of a pilot program for a school district, the district is eligible to
27 receive full state educational aid as provided for under chapter 15-40.1. Any district which has
28 operated an approved pilot program under this section for a period of three years may apply to
29 the superintendent to have the program permanently established. The superintendent shall
30 prescribe rules governing the submission of applications, the evaluation of proposals, and any
31 other matters necessary for the administration of pilot programs provided for by this section.

1 Approval by the superintendent of public instruction of pilot programs permitting modifications in
2 the traditional school calendar satisfies the minimum requirements for school operation and
3 instructional time provided in sections 15-41-06, 15-47-04, and 15-47-33. Approval by the
4 superintendent of a pilot program pursuant to this section does not affect accrual of teachers'
5 benefits provided by statute.

6 **SECTION 5. AMENDMENT.** Section 15-59-02.1 of the 1995 Supplement to the North
7 Dakota Century Code is amended and reenacted as follows:

8 **15-59-02.1. Legislative intent - Special education.** This statement of legislative
9 intent is provided to define more clearly the relationship between the state, school districts, and
10 parents of students with disabilities in the provision of special education and related services.
11 "Related services" means transportation and such developmental and corrective or supportive
12 services required to assist a student with disabilities to benefit from special education.

13 The school administrator or the administrator's appointed representative or director of
14 special education other than the student's teacher is responsible for bringing together
15 professionals and parents to share assessment information related to all areas of suspected
16 disability, develop an individualized education program plan for the student with disabilities, and
17 make recommendations for required special education and related services.

18 The legislative assembly believes that in order to assure equality of services that are
19 provided for by limited state funds, the superintendent of public instruction will be required to
20 approve a contract for services based on an individualized education program developed for
21 each student with disabilities placed in a private school program or in programs outside the
22 student's original special education unit.

23 The legislative assembly recognizes that a student with disabilities whose individualized
24 education program so requires is entitled to an educational program in excess of one hundred
25 ~~eighty~~ seventy days per year if regression caused by an interruption in educational
26 programming, together with a student's limited recoupment capacity, renders it impossible or
27 unlikely that the student will attain the level of self-sufficiency and independence from
28 caretakers that the student would otherwise be expected to reach in view of the disability. All
29 summer programs attended by these students must have approval of the superintendent of
30 public instruction before receiving foundation aid or state special education reimbursement.

1 In the case of students with disabilities who require boarding care away from the family
2 residence in order to receive special education and related services in an approved program, it
3 is the intent of the legislative assembly that the instructional costs and costs of related services,
4 including boarding care, be borne by state special education funds and school district funds.

5 "All students with disabilities have the right to a free appropriate public education"
6 means that all students with disabilities have the right to special education and related services
7 which must be provided at public expense, under public supervision and direction and at no
8 cost to parents. "At no cost" means specifically designed instruction and related services as
9 described in the student's individualized education program plan provided without charge but
10 does not preclude incidental fees that are normally charged to nondisabled students or their
11 parents as a part of the regular education program.

12 School districts must require use of family insurance, or similar third-party payments, in
13 whatever amount is allowed, as long as there is no financial loss to the student or the student's
14 parent, for determining a student's medically related disability or other required related services
15 which results in the student's need for special education. It is the school district's responsibility
16 to assume costs not covered by the insurer or similar third party in the above situation.

17 The school district in which a student with disabilities resides is responsible to provide
18 transportation for the student as prescribed in the student's individualized education program.

19 Costs of transportation for the student to attend an approved special education program
20 are the responsibility of the school district with aid from the superintendent of public instruction.

21 The district of residence may use any reasonably prudent and safe means of
22 transportation at its disposal to carry out the requirements of the individualized education
23 program. Such means may include a regularly scheduled schoolbus, public or commercial
24 transportation where appropriate, charter or specially contracted transportation, or
25 transportation provided by the parent of a student with disabilities or other responsible party at
26 school district expense.

27 If the transportation between the district of residence and the educational facility is
28 provided by the parents, the reimbursement to the school district from department of public
29 instruction funds must be for mileage costs only and may not include per diem costs for meals,
30 lodging, lost wages, or other costs of any kind.

1 As the department of human services has authority under chapter 25-16 to provide early
2 intervention services to meet the needs of children with disabilities ages zero through two
3 years, the legislative assembly recognizes this provision and requires the superintendent of
4 public instruction, the state department of health, and the department of human services to
5 cooperate in planning and coordinating programs for these children.

6 **SECTION 6. REPEAL.** Sections 15-38-04.1 and 15-47-14 of the North Dakota Century
7 Code are repealed.