

Sixty-first
Legislative Assembly
of North Dakota

HOUSE BILL NO.

Introduced by

Representative R. Kelsch

1 A BILL for an Act to create and enact two new sections to chapter 15-20.1, three new sections
2 to chapter 15.1-06, chapter 15.1-18.2, four new sections to chapter 15.1-21, sections
3 15.1-21-02.2, 15.1-21-02.3, 15.1-21-02.4, 15.1-21-02.5, 15.1-21-02.6, and 15.1-21-02.7, one
4 new section to chapter 15.1-27, and four new sections to chapter 15.1-37 of the North Dakota
5 Century Code, relating to school personnel, program and course requirements, assessments,
6 career development facilitation, state aid payments, and early childhood education; to amend
7 and reenact sections 15.1-06-04, 15.1-09.1-10, 15.1-21-02, 15.1-21-02.1, 15.1-27-03.1,
8 15.1-27-04, 15.1-27-07.2, 15.1-27-11, 15.1-27-19, 15.1-27-41, 15.1-32-18, and 15.1-37-01 of
9 the North Dakota Century Code and section 55 of chapter 163 of the 2007 Session Laws,
10 relating to school calendars, course requirements, state aid payments, special education, and
11 early childhood education; to provide an appropriation; to provide for teacher compensation
12 increases; to provide for the distribution of transportation grants, reorganization planning grants,
13 regional education association grants, deferred maintenance grants, and contingency
14 payments; to provide for a contingent transfer; to provide for reports to the legislative council; to
15 repeal sections 15.1-21-02.2, 15.1-27-20.1, and 15.1-38-01.2 of the North Dakota Century
16 Code, relating to high school graduation requirements, the minimum mill levy offset, and new
17 immigrant English language learners; and to declare an emergency.

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

19 **SECTION 1.** A new section to chapter 15-20.1 of the North Dakota Century Code is
20 created and enacted as follows:

21 **Career development facilitation - Certificate - Qualifications.**

22 1. The department shall develop a program leading to a certificate in career
23 development facilitation. The department shall award the certificate to any
24 individual who:

1 a. Holds a baccalaureate degree from an accredited institution of higher
2 education;

3 b. Has at least a five-year employment history; and

4 c. Successfully completes the department's programmatic requirements.

5 2. An individual holding a certificate awarded under this section is a career advisor.

6 **SECTION 2.** A new section to chapter 15-20.1 of the North Dakota Century Code is
7 created and enacted as follows:

8 **Career development facilitation - Provisional approval.**

9 1. The department may provisionally approve an individual to serve as a career
10 advisor if the individual:

11 a. Holds a baccalaureate degree from an accredited institution of higher
12 education;

13 b. Has at least a five-year employment history; and

14 c. Provides the department with a plan for completing the department's
15 programmatic requirements within a two-year period.

16 2. Provisional approval under subsection 1 is valid for a period of two years and may
17 not be extended by the department.

18 **SECTION 3. AMENDMENT.** Section 15.1-06-04 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **15.1-06-04. School calendar - Length.**

21 1. a. During ~~each~~ the 2009-10 school year, a school district shall provide for a
22 school calendar of at least one hundred eighty days, apportioned as follows:

23 ~~a-~~ (1) One hundred seventy-three full days of instruction;

24 ~~b-~~ (2) Three holidays listed in subdivisions b through j of subsection 1 of
25 section 15.1-06-02 and selected by the school board in consultation
26 with district teachers;

27 ~~c-~~ (3) Up to two full days during which parent-teacher conferences are held or
28 which are deemed by the school board to be compensatory time for
29 parent-teacher conferences held outside regular school hours; and

30 ~~d-~~ (4) Two days for professional development activities.

b. Beginning with the 2010-11 school year, a school district shall provide for a school calendar of at least one hundred eighty-one days, apportioned as follows:

(1) One hundred seventy-four full days of instruction;

(2) Three holidays listed in subdivisions b through j of subsection 1 of section 15.1-06-02 and selected by the school board in consultation with district teachers;

(3) Up to two full days during which parent-teacher conferences are held or which are deemed by the school board to be compensatory time for parent-teacher conferences held outside regular school hours; and

(4) Two days for professional development activities.

2. a. In meeting the requirements for two days of professional development activities under subsection 1, a school district may require that its teachers attend the North Dakota education association instructional conference and may pay teachers for attending the conference, provided attendance is verified.

b. In meeting the requirements for two days of professional development activities under subsection 1, a school district may consider attendance at the North Dakota education association instructional conference to be optional, elect not to pay teachers for attending the instructional conference, and instead direct any resulting savings toward providing alternate professional development opportunities.

c. For purposes of this section, a "day for professional development activities" means:

(1) Six hours of professional development activities, exclusive of meals and other breaks, conducted within a single day; or

(2) Two four-hour periods of professional development activities, exclusive of meals and other breaks, conducted over two days.

3. If a school district offers a four-hour period of professional development activities, as permitted in subdivision c of subsection 2, the school district may schedule instruction during other available hours on that same day and be credited with

providing one-half day of instruction to students. The provisions of this subsection do not apply unless the one-half day of instruction equals at least one-half of the time required for a full day of instruction, as defined in this section.

4. A school district may not require the attendance of teachers in school or at any school-sponsored, school-directed, school-sanctioned, or school-related activities and may not schedule classroom instruction time nor alternate professional development activities on any day that conflicts with the North Dakota education association instructional conference.

5. a. ~~During the 2007-08 school year, a full day of instruction consists of:~~

(1) ~~At least five and one-half hours for elementary students, during which time the students are required to be in attendance for the purpose of receiving curricular instruction; and~~

(2) ~~At least six hours for high school students, during which time the students are required to be in attendance for the purpose of receiving curricular instruction.~~

- b. ~~Beginning with the 2008-09 school year, a~~ A full day of instruction consists of:

(1) At least five and one-half hours for kindergarten and elementary students, during which time the students are required to be in attendance for the purpose of receiving curricular instruction; and

(2) At least six hours for high school students, during which time the students are required to be in attendance for the purpose of receiving curricular instruction.

- b. Notwithstanding subdivision a, up to four days of the days of full instruction required by subsection 1 may be configured as follows:

(1) At least hours for kindergarten and elementary students, during which time the students are required to be in attendance for the purpose of receiving curricular instruction and at least one and one-half hours during which students are not required to be in attendance but teachers are required to participate with other teachers in collaborative or cooperative activities pertaining to curriculum, classroom practices, and the interpretation and use of formative testing data; and

(2) At least four and one-half hours for high school students, during which time the students are required to be in attendance for the purpose of receiving curricular instruction and at least one and one-half hours during which students are not required to be in attendance but teachers are required to participate with other teachers in collaborative or cooperative activities pertaining to curriculum, classroom practices, and the interpretation and use of formative testing data.

6. If a school's calendar provides for an extension of each schoolday beyond the statutorily required minimum number of hours, and if the extensions when aggregated over an entire school year amount to more than eighty-four hours of additional classroom instruction during the school year, the school is exempt from having to make up six hours of instruction time lost as a result of weather-related closure. In order to make up lost classroom instruction time beyond the six hours, the school must extend its normal school calendar day by at least thirty minutes.

7. A school that does not qualify under ~~the provisions of~~ subsection 6 must extend its normal schoolday by at least thirty minutes to make up classroom instruction time lost as a result of weather-related closure.

8. If because of weather a school must dismiss before completing a full day of instruction, the school is responsible for making up only those hours and portions of an hour between the time of early dismissal and the conclusion of a full day of classroom instruction.

SECTION 4. A new section to chapter 15.1-06 of the North Dakota Century Code is created and enacted as follows:

Elementary school tutors - Requirement for accreditation - Qualifications - Verification report.

1. Beginning with the 2010-11 school year, an elementary school seeking accreditation from the superintendent of public instruction shall demonstrate that it has available one full-time equivalent tutor for every four hundred students in average daily membership in kindergarten through grade three. The individual serving as a tutor must meet the qualifications of an elementary school teacher set forth in section 15.1-18-07.

- 1 2. For purposes of accreditation, the school shall submit to the superintendent of
2 public instruction, at the time and in the manner directed by the superintendent,
3 documentation verifying the amount of time that the individual expended in tutoring
4 students, on a one-to-one basis or in groups ranging from two to five students, and
5 demonstrating that the tutoring activities took place within a structured plan to
6 provide academic assistance to students.

7 **SECTION 5.** A new section to chapter 15.1-06 of the North Dakota Century Code is
8 created and enacted as follows:

9 **Counselor positions - Requirement for accreditation.**

- 10 1. A school seeking accreditation from the superintendent of public instruction shall
11 demonstrate that it has available one full-time equivalent counselor for every three
12 hundred students in grades seven through twelve.
13 2. Up to one-third of the full-time equivalency requirement established in subsection 1
14 may be met by career advisors.
15 3. For purposes of this section, a "career advisor" means an individual who holds a
16 certificate in career development facilitation issued by the department of career
17 and technical education under section 1 of this Act or an individual who is
18 provisionally approved by the department of career and technical education under
19 section 2 of this Act to serve as a career advisor.

20 **SECTION 6.** A new section to chapter 15.1-06 of the North Dakota Century Code is
21 created and enacted as follows:

22 **Career advisor - Duties.** A career advisor shall meet with students in grades seven
23 through twelve, discuss the student's academic assessments and career interest surveys, and
24 pursue with the student career development and work-planning activities. A career advisor
25 shall use computer-assisted career guidance systems and work at the direction and under the
26 supervision of the school district counseling staff.

27 **SECTION 7. AMENDMENT.** Section 15.1-09.1-10 of the North Dakota Century Code
28 is amended and reenacted as follows:

29 **15.1-09.1-10. State aid - Payable to a regional education association - Obligation**
30 **of district.**

- 1 1. The superintendent of public instruction shall forward the portion of a school
2 district's state aid ~~that~~ which is payable by the superintendent under subdivision q
3 of subsection 1 of section 15.1-27-03.1 as a result of the district's participation in a
4 regional education association directly to the association in which the district
5 participates. The superintendent shall forward the amount payable under this
6 subsection at the same time and in the same manner as provided for other state
7 aid payments under section 15.1-27-01.
- 8 2. If the superintendent of public instruction determines that a school district failed to
9 meet any contractual or statutory obligation imposed upon it as a result of the
10 district's participation in a regional education association, the superintendent shall
11 subtract the amount for which the district was not eligible from any future
12 distribution of state aid to the district under section 15.1-27-01.

13 **SECTION 8.** Chapter 15.1-18.2 of the North Dakota Century Code is created and
14 enacted as follows:

15 **15.1-18.2-01. Professional development plan - Adoption - Review by school**
16 **district.**

- 17 1. As a condition of accreditation, each school district shall adopt a professional
18 development plan. The plan must include a description of the professional
19 development activities that the district offers or makes available, the district's
20 requirements for participation by teachers, and the manner in which participation is
21 documented.
- 22 2. Each school district shall review and if necessary modify its plan at least once
23 every five years.
- 24 3. Each school district shall file a copy of its most recent professional development
25 plan with the superintendent of public instruction.

26 **15.1-18.2-02. Professional development plan - Review by superintendent of**
27 **public instruction.** The superintendent of public instruction shall review each school district's
28 professional development plan to ensure that the plan meets the requirements of section
29 15.1-18.2-01, is designed to improve the quality of teaching and learning in the district, and is
30 implemented in an efficient and effective manner.

15.1-18.2-03. Professional development advisory committee - Duties - Staff

support.

1. The superintendent of public instruction shall appoint an advisory committee to:
 - a. Monitor the delivery of professional development in this state;
 - b. Conduct a needs assessment from the perspective of teachers, school administrators, school board members, and parents;
 - c. Review the professional development plans filed by school districts and propose changes to improve the opportunities for professional development; and
 - d. Advise the superintendent regarding regulatory and statutory measures that could be pursued to improve the quality and availability of professional development opportunities.
2. The superintendent shall employ an individual to review all professional development plans submitted by school districts and provide staff support to the professional development advisory committee.

SECTION 9. AMENDMENT. Section 15.1-21-02 of the North Dakota Century Code is amended and reenacted as follows:

15.1-21-02. High schools - Required units.

1. In order to be approved by the superintendent of public instruction, each public and nonpublic high school shall make available to each student:
 - a. Four units of English language arts;
 - b. Four units of mathematics;
 - c. Four units of science;
 - d. Four units of social studies, including one of world history and one of United States history;
 - e. One-half unit of health;
 - f. ~~One-half~~ One unit of physical education during each school year, provided that once every four years the unit must be a concept-based fitness class that includes instruction in the assessment, improvement, and maintenance of personal fitness;
 - g. Two units of fine arts, at least one of which must be music;

- 1 h. ~~Two~~ Three units of foreign or native American languages, at least two of
2 which must be of the same foreign or native American language; and
- 3 i. Two units of career and technical education.
- 4 2. In addition to the requirements of subsection 1, each public and nonpublic high
5 school shall make available to each student, at least once every two years,
6 one-half unit of North Dakota studies, with an emphasis on the geography, history,
7 and agriculture of this state.
- 8 3. Each unit which must be made available under this section must meet or exceed
9 the state content standards.
- 10 4. For purposes of this section, unless the context otherwise requires, "make
11 available" means that:
 - 12 a. Each public high school and nonpublic high school shall allow students to
13 select units over the course of a high school career from a list that includes at
14 least those required by this section;
 - 15 b. If a student selects a unit from the list required by this section, the public high
16 school or the nonpublic high school shall provide the unit to the student; and
 - 17 c. The unit may be provided to the student through any delivery method not
18 contrary to state law and may include classroom or individual instruction and
19 distance learning options, including interactive video, computer instruction,
20 correspondence courses, and postsecondary enrollment under chapter
21 15.1-25.
- 22 5. The board of a school district may not impose any fees or charges upon a student
23 for the provision of or participation in units as provided in this section, other than
24 the fees permitted by section 15.1-09-36.
- 25 6. If in order to meet the minimum requirements of this section a school district
26 includes academic courses offered by a postsecondary institution under chapter
27 15.1-25, the school district shall:
 - 28 a. Pay all costs of the student's attendance, except those fees that are
29 permissible under section 15.1-09-36; and

b. Transport the student to and from the location at which the course is offered or provide mileage reimbursement to the student if transportation is provided by the student or the student's family.

7. The requirements of this section do not apply to alternative high schools or alternative high school education programs.

8. The requirements of subdivisions g and h of subsection 1 do not apply to the North Dakota youth correctional center.

SECTION 10. AMENDMENT. Section 15.1-21-02.1 of the North Dakota Century Code is amended and reenacted as follows:

15.1-21-02.1. High school graduation - Merit diploma requirements. ~~Before~~ Except as provided in sections 15.1-21-02.2, 15.1-21-02.3, and 15.1-21-02.6, before a school district, a nonpublic high school, or the center for distance education issues a high school diploma to a student, the student must have successfully completed at least twenty-one the following twenty-two units of high school coursework from the minimum required curriculum offerings established by section 15.1-21-02. Beginning with the 2009-10 school year, the number of units required by this section increases to twenty-two and beginning with the 2011-12 school year, the number of units required by this section increases to twenty-four:

1. Four units of English language arts from a sequence that includes literature, composition, and speech;

2. a. Three units of mathematics, including:

(1) One unit of algebra I;

(2) One unit of geometry; and

(3) One unit of algebra II or consumer mathematics; or

b. Three units of mathematics from an integrated mathematics series approved by the superintendent of public instruction;

3. Three units of science, including:

a. One unit of physical science;

b. One unit of biology; and

c. One unit of life science, chemistry, physics, earth science, or space science;

4. Three units of social studies, including:

a. One unit of United States history;

- 1 b. (1) One-half unit of United States government and one-half unit of
2 economics; or
3 (2) One unit of problems of democracy; and
4 c. One unit of:
5 (1) World history;
6 (2) World history and civilization;
7 (3) Geography and history;
8 (4) Psychology;
9 (5) Sociology; or
10 (6) One-half unit of North Dakota studies and one-half unit of multicultural
11 studies;
12 5. a. One unit of physical education; or
13 b. One-half unit of physical education and one-half unit of health;
14 6. Three units of:
15 a. Foreign languages;
16 b. Native American languages;
17 c. Fine arts; or
18 d. Career and technical education courses; and
19 7. Any five additional units.

20 **SECTION 11.** Section 15.1-21-02.2 of the North Dakota Century Code is created and
21 enacted as follows:

22 **15.1-21-02.2. Merit diploma with technical honors - Certificate - Requirements.** A
23 student is eligible to receive a certificate evidencing completion of a merit diploma with technical
24 honors upon obtaining a grade of at least "C" in each unit required for the diploma; receiving a
25 cumulative grade point average of at least "B"; receiving either a composite score of at least
26 twenty-four on an ACT, a score of at least one thousand one hundred on the critical reading
27 and mathematics portions of the SAT, or a score of at least twenty on the WorkKeys; and
28 successfully completing the following requirements:

- 29 1. Four units of English language arts from a sequence that includes literature,
30 composition, and speech;
31 2. a. Three units of mathematics, including:

- 1 (1) One unit of algebra I;
- 2 (2) One unit of geometry; and
- 3 (3) One unit of algebra II or consumer mathematics; or
- 4 b. Three units of mathematics from an integrated mathematics series approved
- 5 by the superintendent of public instruction;
- 6 3. Three units of science, including:
- 7 a. One unit of physical science;
- 8 b. One unit of biology; and
- 9 c. One unit of life science, chemistry, physics, earth science, or space science;
- 10 4. Three units of social studies, including:
- 11 a. One unit of United States history;
- 12 b. (1) One-half unit of United States government and one-half unit of
- 13 economics; or
- 14 (2) One unit of problems of democracy; and
- 15 c. One unit of:
- 16 (1) World history;
- 17 (2) World history and civilization;
- 18 (3) Geography and history;
- 19 (4) Psychology;
- 20 (5) Sociology; or
- 21 (6) One-half unit of North Dakota studies and one-half unit of multicultural
- 22 studies;
- 23 5. a. One unit of physical education; or
- 24 b. One-half unit of physical education and one-half unit of health;
- 25 6. Four units of a career and technical education program recommended by the
- 26 department of career and technical education and approved by the superintendent
- 27 of public instruction; and
- 28 7. Any six additional units.

29 **SECTION 12.** Section 15.1-21-02.3 of the North Dakota Century Code is created and
30 enacted as follows:

15.1-21-02.3. Merit diploma with academic honors - Certificate - Requirements. A

student is eligible to receive a certificate evidencing completion of a merit diploma with academic honors upon obtaining a grade of at least "C" in each unit required for the diploma; receiving a cumulative grade point average of at least "B"; receiving a composite score of at least twenty-four on an ACT or a score of at least one thousand one hundred on the critical reading and mathematics portions of the SAT; completing at least one unit of an advanced placement course and examination or completing one unit of a dual-credit course; and successfully completing the following requirements:

1. Four units of English language arts from a sequence that includes literature, composition, and speech;
2. Four units of mathematics, including:
 - a. One unit of algebra I, which may be completed by a student in the eighth grade provided the unit is taught by an individual who meets the requirements of section 15.1-18-09;
 - b. One unit of geometry;
 - c. One unit of algebra II; and
 - d. One unit for which algebra II is a prerequisite;
3. Three units of science, including:
 - a. One unit of physical science;
 - b. One unit of biology; and
 - c. One unit of life science, chemistry, physics, earth science, or space science;
4. Three units of social studies, including:
 - a. One unit of United States history;
 - b. (1) One-half unit of United States government and one-half unit of economics; or
(2) One unit of problems of democracy; and
 - c. One unit of:
 - (1) World history;
 - (2) World history and civilization;
 - (3) Geography and history;
 - (4) Psychology;

- 1 (5) Sociology; or
- 2 (6) One-half unit of North Dakota studies and one-half unit of multicultural
- 3 studies;
- 4 5. a. One unit of physical education; or
- 5 b. One-half unit of physical education and one-half unit of health;
- 6 6. Two units of the same foreign or native American language;
- 7 7. One unit of:
- 8 a. Fine arts; or
- 9 b. Career and technical education;
- 10 8. One unit of:
- 11 a. A foreign or native American language;
- 12 b. Fine arts; or
- 13 c. Career and technical education; and
- 14 9. Any five additional units.

15 **SECTION 13.** Section 15.1-21-02.4 of the North Dakota Century Code is created and
16 enacted as follows:

17 **15.1-21-02.4. Completion of requirements - Certificate of achievement.** If a student
18 successfully completes the requirements for a merit diploma with technical honors or a merit
19 diploma with academic honors, the principal or administrator of the school in which the student
20 is enrolled shall notify the superintendent of public instruction and the superintendent shall
21 award the student a certificate of achievement. This section is applicable to any student who
22 graduates from a high school in this state or from a high school in a bordering state under
23 chapter 15.1-29 at the conclusion of the 2011-12 school year or thereafter.

24 **SECTION 14.** Section 15.1-21-02.5 of the North Dakota Century Code is created and
25 enacted as follows:

26 **15.1-21-02.5. Certificate of achievement - Eligibility for scholarship.**

- 27 1. Any student who has been awarded a certificate of achievement under section
28 15.1-21-02.4 is entitled to receive from the state board of higher education a
29 scholarship in the amount of seven hundred fifty dollars for each semester during
30 which the student is enrolled full time at an accredited institution of higher
31 education in this state.

2. A student is not entitled to receive more than six thousand dollars under this section.
3. The state board of higher education shall forward the scholarship directly to the institution in which the student is enrolled.
4. This section does not require a student to be enrolled in consecutive semesters. However, a scholarship under this section is valid only for six academic years after the student's graduation from high school.

SECTION 15. Section 15.1-21-02.6 of the North Dakota Century Code is created and enacted as follows:

15.1-21-02.6. General high school diploma - Requirements. If after completing at least two years of high school, a student has failed to pass at least one-half unit from at least three of the subsections in section 15.1-21-02.1 or has a grade point average at or below the twenty-fifth percentile of other students in the district who are enrolled in the same grade, the student may request that the student's career advisor, guidance counselor, or principal meet with the student and the student's parent to determine if the student should be permitted to pursue a general high school curriculum, in place of the requirements set forth in section 15.1-21-02.1. If a student's parent consents in writing to the student pursuing the general high school curriculum, the student is eligible to receive a general high school diploma, upon successfully completing the following requirements:

1. Four units of English language arts from a sequence that includes literature, composition, and speech;
2. Two units of mathematics, including:
 - a. One unit of algebra I; and
 - b. (1) One unit of consumer mathematics; or
(2) One unit of an integrated mathematics series approved by the superintendent of public instruction;
3. Two units of science, including:
 - a. One unit of physical science; and
 - b. One unit of:
 - (1) Life science or biology;
 - (2) Physical science, chemistry, and physics; or

- 1 (3) Earth science and space science;
- 2 4. Three units of social studies;
- 3 5. a. One unit of physical education; or
- 4 b. One-half unit of physical education and one-half unit of health;
- 5 6. Two units of:
- 6 a. (1) Foreign languages;
- 7 (2) Native American languages; and
- 8 (3) Fine arts; or
- 9 b. Career and technical education courses; and
- 10 7. Any seven additional units.

11 **SECTION 16.** A new section to chapter 15.1-21 of the North Dakota Century Code is
12 created and enacted as follows:

13 **Summer school courses and programs - Eligibility for payment.** The summer
14 school courses and programs for which a school district may receive payment as provided in
15 section 15.1-27-10 are:

- 16 1. a. Remedial mathematics provided to students enrolled in any grade from
17 kindergarten through eight;
- 18 b. Remedial reading provided to students enrolled in any grade from
19 kindergarten through eight;
- 20 c. Mathematics provided to students enrolled in any grade from five through
21 nine;
- 22 d. Reading provided to students enrolled in any grade from five through nine;
- 23 e. Science provided to students enrolled in any grade from five through nine;
24 and
- 25 f. Social studies provided to students enrolled in any grade from five through
26 nine; and
- 27 2. Any other high school summer courses that satisfy requirements for graduation,
28 comprise at least as many clock-hours as courses offered during the regular school
29 term, and comply with rules adopted by the superintendent of public instruction.

30 **SECTION 17.** A new section to chapter 15.1-21 of the North Dakota Century Code is
31 created and enacted as follows:

1 **Formative assessment - Requirement for accreditation.** A school seeking
2 accreditation from the superintendent of public instruction shall demonstrate that the school
3 annually administers to students in grades two through ten a formative assessment approved
4 by the superintendent of public instruction.

5 **SECTION 18.** A new section to chapter 15.1-21 of the North Dakota Century Code is
6 created and enacted as follows:

7 **Career interest inventory assessment - Requirement for accreditation.** A school
8 seeking accreditation from the superintendent of public instruction shall demonstrate that the
9 school administers to students, at least once during their enrollment in grades seven through
10 ten, a career interest inventory assessment approved by the superintendent of public
11 instruction.

12 **SECTION 19.** A new section to chapter 15.1-21 of the North Dakota Century Code is
13 created and enacted as follows:

14 **Summative assessment - Selection - Cost - Exemptions.**

- 15 1. Except as otherwise provided, each student in grade eleven shall take the ACT,
16 the SAT, WorkKeys, or any other summative assessment approved by the
17 superintendent of public instruction. The student shall determine which
18 assessment to take. The student's school district is responsible for the cost of one
19 assessment and its administration per student.
- 20 2. If the student's school district employs a career advisor or a guidance counselor,
21 that individual shall meet with the student to review the student's assessment
22 results.
- 23 3. A school district superintendent may exempt a student from the requirements of
24 this section if taking the test is not required by the student's individualized
25 education program plan or if the superintendent determines that other special
26 circumstances exist.

27 **SECTION 20. AMENDMENT.** Section 15.1-27-03.1 of the North Dakota Century Code
28 is amended and reenacted as follows:

29 **15.1-27-03.1. Weighted average daily membership - Determination.**

- 30 1. For each school district, the superintendent of public instruction shall multiply by:

- 1 a. 1.00 the number of full-time equivalent students enrolled in a migrant summer
- 2 program;
- 3 b. 1.00 the number of full-time equivalent students enrolled in an extended
- 4 educational program in accordance with section 15.1-32-17;
- 5 c. 0.60 the number of full-time equivalent students enrolled in a summer
- 6 education program;
- 7 d. 0.50 the number of full-time equivalent students enrolled in a home-based
- 8 education program and monitored by the school district under chapter
- 9 15.1-23;
- 10 e. 0.25 the number of full-time equivalent students enrolled in an alternative high
- 11 school;
- 12 f. 0.25 the number of full-time equivalent students enrolled in an isolated
- 13 elementary school;
- 14 g. 0.25 the number of full-time equivalent students enrolled in an isolated high
- 15 school;
- 16 h. 0.20 the number of full-time equivalent students attending school in a
- 17 bordering state in accordance with section 15.1-29-01;
- 18 i. 0.20 the number of full-time equivalent students who on a test of English
- 19 language proficiency approved by the superintendent of public instruction are
- 20 determined to be least proficient and are enrolled in a program of instruction
- 21 for English language learners;
- 22 j. 0.20 the number of students enrolled, beginning with the 2010-11 school year,
- 23 in an early childhood education program that is approved under section
- 24 15.1-37-01, that meets the requirements of section 32 of this Act, and which
- 25 provides at least two half days of instruction during each week of the school
- 26 calendar;
- 27 k. 0.17 the number of full-time equivalent students enrolled in an early childhood
- 28 special education program;
- 29 ~~j. 0.14 the number of full-time equivalent students enrolled in a new immigrant~~
- 30 ~~English language learner program;~~

- 1 ~~k. l.~~ 0.067 0.07 the number of students enrolled in average daily membership, in
2 order to support the provision of special education services; ~~and~~
3 m. 0.05 the number of students representing that percentage of the total number
4 of students in average daily membership, which is equivalent to the three-year
5 average percentage of students in grades three through eight who are eligible
6 for free or reduced lunches under the Richard B. Russell National School
7 Lunch Act, [42 U.S.C. 1751 et seq.];
8 n. 0.05 the number of full-time equivalent students who on a test of English
9 language proficiency approved by the superintendent of public instruction are
10 determined to be not proficient and are enrolled in a program of instruction for
11 English language learners;
12 ~~l. o.~~ 0.02 the number of full-time equivalent students, other than those provided for
13 in subdivision j, who on a test of English language proficiency approved by
14 the superintendent of public instruction are determined to be somewhat
15 proficient and are enrolled in a program of instruction for English language
16 learner-program learners; and
17 p. 0.004 the number of full-time equivalent students in grades seven through
18 twelve who are enrolled in a school district that is a participating member of a
19 regional education association meeting the requirements of chapter 15.1-09.1.

- 20 2. The superintendent of public instruction shall determine each school district's
21 weighted average daily membership by adding the products derived under
22 subsection 1 to the district's average daily membership.

23 **SECTION 21. AMENDMENT.** Section 15.1-27-04 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **15.1-27-04. Per student payment rate.**

- 26 1. a. The per student payment rate to which each school district is entitled for the
27 first year of the biennium is three thousand ~~two~~ four hundred ~~fifty~~ twenty-three
28 dollars.
29 b. The per student payment rate to which each school district is entitled for the
30 second year of the biennium is three thousand ~~three~~ seven hundred
31 ~~twenty-five~~ eighty-three dollars.

2. In order to determine the state aid payment to which each district is entitled, the superintendent of public instruction shall multiply each district's weighted student units by the per student payment rate set forth in subsection 1.

SECTION 22. AMENDMENT. Section 15.1-27-07.2 of the North Dakota Century Code is amended and reenacted as follows:

15.1-27-07.2. Baseline funding - Determination - Minimum and maximum allowable increases.

1. ~~a.~~ The Except as provided in subdivision b, the superintendent of public instruction shall determine each school district's baseline funding per weighted student unit by:
- ~~a.~~ (1) Adding together all state aid received by the district during the 2006-07 school year;
- ~~b.~~ (2) Subtracting the amount received by the district during the 2006-07 school year for transportation aid, special education excess cost reimbursements, special education contracts, prior year funding adjustments, and per student payments for participation in educational associations governed by joint powers agreements; and
- ~~c.~~ (3) Dividing the amount determined under ~~subdivision b~~ paragraph 2 by the district's 2007-08 weighted student units.
- b. If in carrying out subdivision a the superintendent of public instruction determines that the amount of federal impact aid received by a school district during the 2006-07 school year results in that district losing state aid under section 15.1-27-35.3, the superintendent shall establish that district's baseline by:
- (1) Adding together the amount of state aid that the district would have received during the 2006-07 school year if in determining the district's ending fund balance the average amount of federal impact aid received by the district during the 2005-06 and 2006-07 school years were used, rather than the actual amount received during the 2006-07 school year;
- (2) Subtracting the amount received by the district during the 2006-07 school year for transportation aid, special education excess cost

reimbursements, special education contracts, prior year funding
adjustments, and per student payments for participation in regional
education associations; and

(3) Dividing the amount determined under paragraph 2 by the district's
2007-08 weighted student units.

2. a. The superintendent of public instruction shall ensure that the total amount of
state aid payable to a district per weighted student unit, for the ~~2007-08~~
2009-10 school year, is at least equal to one hundred ~~three and one-half~~ eight
percent of the baseline funding per weighted student unit, as established in
subsection 1.

b. The superintendent of public instruction shall ensure that the total amount of
state aid payable to a district per weighted student unit, for each school year
after the ~~2007-08~~ 2009-10 school year, is at least equal to one hundred ~~six~~
twelve and one-half percent of the baseline funding per weighted student unit,
as established in subsection 1.

3. a. The superintendent of public instruction shall ensure that the total amount of
state aid payable to a district per weighted student unit, less any amount
received as equity payments under section 15.1-27-11 per weighted student
unit, does not exceed, for the ~~2007-08~~ 2009-10 school year, one hundred
~~seven~~ twenty percent of the baseline funding per weighted student unit, as
established in subsection 1.

b. ~~Beginning with the 2008-09 school year, the maximum percentage of
allowable growth in the baseline funding per weighted student unit provided in
subdivision a must be annually increased by three percentage points, plus the
district's share of any increased state aid for that year. Payments received by
districts for the provision of full-day kindergarten do not constitute increases in
state aid for purposes of this subdivision.~~ The superintendent of public
instruction shall ensure that the total amount of state aid payable to a district
per weighted student unit, less any amount received as equity payments
under section 15.1-27-11 per weighted student unit, does not exceed, for
each school year after the 2009-10 school year, one hundred thirty-four

percent of the baseline funding per weighted student unit, as established in
subsection 1.

SECTION 23. AMENDMENT. Section 15.1-27-11 of the North Dakota Century Code is
amended and reenacted as follows:

15.1-27-11. Equity payments.

1. The superintendent of public instruction shall:

- a. Divide the imputed taxable valuation of the state by the total average daily membership of all school districts in the state in order to determine the state average imputed taxable valuation per student.
- b. Divide the imputed taxable valuation of each school district by the district's total average daily membership in order to determine each district's average imputed taxable valuation per student.

~~2. a. If a school district's imputed taxable valuation per student is less than eighty-eight and one-half percent of the statewide imputed taxable valuation per student, the superintendent of public instruction shall calculate the valuation deficiency by:~~

- ~~(1) Determining the difference between eighty-eight and one-half percent of the state average imputed taxable valuation per student and the district's average imputed taxable valuation per student; and~~
- ~~(2) Multiplying that difference by the district's total average daily membership.~~

~~b. Beginning July 1, 2008, if~~ If a school district's imputed taxable valuation per student is less than ninety percent of the statewide imputed taxable valuation per student, the superintendent of public instruction shall calculate the valuation deficiency by:

- ~~(1)~~ a. Determining the difference between ninety percent of the state average imputed taxable valuation per student and the district's average imputed taxable valuation per student; and
- ~~(2)~~ b. Multiplying that difference by the district's total average daily membership.

- 1 3. Except as provided in subsection 4, the equity payment to which a district is
2 entitled under this section equals the district's valuation deficiency multiplied by the
3 lesser of:
- 4 a. The district's general fund mill levy; or
5 b. One hundred eighty-five mills.
- 6 4. a. The equity payment to which a district is entitled may not exceed the district's
7 taxable valuation multiplied by its general fund mill levy.
8 b. If a district's general fund levy is less than one hundred eighty-five mills, the
9 superintendent of public instruction shall subtract the district's general fund
10 mill levy from one hundred eighty-five mills, multiply the result by the district's
11 taxable valuation, and subtract that result from the equity payment to which
12 the district is otherwise entitled.
13 c. If a district's imputed taxable valuation per student is less than fifty percent of
14 the statewide imputed taxable valuation per student, the payment to which the
15 district is entitled under this section may not be less than twenty percent of the
16 statewide imputed taxable valuation per student times the school district's
17 average daily membership, multiplied by one hundred eighty-five mills.
- 18 5. In determining the amount to which a school district is entitled under this section,
19 the superintendent of public instruction may not include any payments received by
20 the district as a result of Public Law No. 81-874 [64 Stat. 1100; 20 U.S.C. 236
21 et seq.] and may not include in the district's average daily membership students
22 who are dependents of members of the armed forces and students who are
23 dependents of civilian employees of the department of defense.
- 24 6. For purposes of this section:
- 25 a. "General fund levy" includes a district's high school transportation levy and its
26 high school tuition levy.
27 b. "Imputed taxable valuation" means the valuation of all taxable real property in
28 the district plus an amount determined by dividing ~~sixty percent of the district's~~
29 ~~mineral and tuition revenue by the district's general fund mill levy. Beginning~~
30 ~~July 1, 2008, "imputed taxable valuation" means the valuation of all taxable~~
31 ~~real property in the district plus an amount determined by dividing seventy~~

percent of the district's mineral and tuition revenue by the district's general fund mill levy.

c. "Mineral revenue" includes all revenue from county sources reported under code 2000 of the North Dakota school district financial accounting and reporting manual as developed by the superintendent of public instruction in accordance with section 15.1-02-08.

d. "Tuition revenue" includes all revenue reported under code 1300 of the North Dakota school district financial accounting and reporting manual as developed by the superintendent of public instruction in accordance with section 15.1-02-08. "Tuition revenue" does not include tuition income received specifically for the operation of an educational program provided at a residential treatment facility.

SECTION 24. A new section to chapter 15.1-27 of the North Dakota Century Code is created and enacted as follows:

Reorganized district - Continuation of equity payment. If a school district that received an equity payment under section 15.1-27-11 becomes part of a reorganized district on or after July 1, 2010, the newly reorganized district is entitled to receive, for a period of two years, an amount equal to the greater of:

1. The equity payment received by each of the school districts during the school year immediately preceding the reorganization; or
2. The equity payment to which the newly reorganized school district is entitled under section 15.1-27-11.

SECTION 25. AMENDMENT. Section 15.1-27-19 of the North Dakota Century Code is amended and reenacted as follows:

15.1-27-19. Summer school courses and programs - Payments to school districts.

1. Before a weight may be assigned under section 15.1-27-03.1 for a student enrolled in a high school summer course, the superintendent of public instruction shall verify that the course meets the criteria set forth in section 15 of this Act, satisfies requirements for graduation, comprises at least as many clock-hours as courses offered during the regular school term, and complies with rules adopted by the superintendent of public instruction.

2. Before a weight may be assigned under section 15.1-27-03.1 for a student enrolled in an elementary summer program, the superintendent of public instruction shall verify that the program meets the criteria set forth in section 15 of this Act and complies with rules adopted by the superintendent of public instruction.

SECTION 26. AMENDMENT. Section 15.1-27-41 of the North Dakota Century Code is amended and reenacted as follows:

15.1-27-41. North Dakota commission on education improvement - Membership - Duties - Report to legislative council - Reimbursement for expenses.

1. The North Dakota commission on education improvement consists of:
- a. (1) The governor or an individual designated by the governor, who shall serve as the chairman;
 - (2) One individual, appointed by the governor, who is employed as the superintendent of a high school district having ~~more than~~ at least one thousand students in average daily membership;
 - (3) One individual, appointed by the governor, who is employed as the superintendent of a high school district having ~~more than two hundred twenty but~~ fewer than one thousand students in average daily membership;
 - (4) One individual, appointed by the governor, who is employed as ~~the superintendent of a high school district having fewer than two hundred twenty students in average daily membership;~~
 - ~~(5) One individual, appointed by the governor, who is employed as a school district business manager;~~
 - (5) One individual, appointed by the governor from a list of three names forwarded by the North Dakota chamber of commerce, who is the owner or manager of a business located in this state;
 - (6) The chairman of the senate education committee or the chairman's designee;
 - (7) The chairman of the house education committee or the chairman's designee;
 - (8) The senate minority leader or the leader's designee;

- 1 (9) One legislator appointed by the chairman of the legislative council; ~~and~~
- 2 (10) The superintendent of public instruction or an assistant superintendent
- 3 designated by the superintendent of public instruction; and
- 4 (11) The commissioner of higher education or the commissioner's designee;
- 5 and
- 6 b. One nonvoting member representing the North Dakota council of educational
- 7 leaders, one nonvoting member representing the North Dakota education
- 8 association, and one nonvoting member representing the North Dakota school
- 9 boards association.
- 10 2. The commission shall establish its own duties and rules of operation and
- 11 procedure, including rules relating to appointments, terms of office, vacancies,
- 12 quorums, and meetings, provided that the duties and the rules do not conflict with
- 13 any provisions of this section.
- 14 3. ~~The members of the commission are entitled to reimbursement for actual and~~
- 15 ~~necessary expenses incurred in the same manner as state officials.~~ Each member
- 16 of the commission, except the governor, the superintendent of public instruction,
- 17 and the commissioner of higher education, or their respective designees, is entitled
- 18 to receive compensation in the amount of one hundred thirty-five dollars per day
- 19 plus reimbursement for expenses as provided by law for state officers if the
- 20 member is attending meetings or performing duties directed by the council. The
- 21 superintendent of public instruction shall use up to forty thousand dollars from
- 22 moneys appropriated in the grants - state school aid line item in ~~section 3 of~~
- 23 ~~Senate Bill No. 2013~~ the appropriation bill for the superintendent of public
- 24 instruction, as approved by the ~~sixtieth~~ legislative assembly, to provide the
- 25 compensation and reimbursements.
- 26 4. The commission shall ~~examine~~:
- 27 a. Examine the current system of delivering and financing public elementary and
- 28 secondary education and shall develop recommendations addressing
- 29 educational adequacy, the equitable distribution of state education funds, the
- 30 allocation of funding responsibility between federal, state, and local sources,

and any other matters that could result in the improvement of elementary and secondary education in the state;

b. Examine the state's high school graduation requirements, curricular standards, and assessments to ensure that students have the academic skills necessary to move seamlessly and without remediation from high schools to institutions of higher education or to meet the performance levels expected by employers;

c. Examine the measures enacted by the most recent legislative assembly to improve student performance, confirm their full implementation, and recommend future measures for continued improvement; and

d. Examine the measures enacted by the most recent legislative assembly to improve the quality of instruction, confirm their full implementation, and recommend future measures for continued improvement.

5. The commission shall provide periodic reports to the governor and to the legislative council.

SECTION 27. AMENDMENT. Section 15.1-32-18 of the North Dakota Century Code is amended and reenacted as follows:

15.1-32-18. Cost - Liability of school district for special education.

1. Each year the superintendent of public instruction shall identify the approximately one percent of special education students statewide who are not eligible for cost reimbursement under section 15.1-29-14 and who require the greatest school district expenditures in order to provide them with special education and related services. This percentage represents the number of students that would qualify for excess cost reimbursement beyond the multiplier that is established in subsection 3.

2. The excess costs of providing special education and related services to these students are the responsibility of the state and the superintendent of public instruction shall reimburse the school districts for any excess costs incurred in the provision of special education and related services to the identified students.

3. "Excess costs" are those that exceed four ~~and one-half~~ times the state average cost of education per student and which are incurred by the special education students identified in subsection 1.
4. All costs of providing special education and related services to those students identified in subsection 1, other than excess costs reimbursed by the state, are the responsibility of the student's school district of residence.
5. In addition to any other reimbursements provided under this section, if a school district expends more than two percent of its annual budget for the provision of special education and related services to one student, the district shall notify the superintendent of public instruction. Upon verification, the superintendent shall reimburse the district for the difference between:
 - a. Two percent of the district's annual budget; and
 - b. The lesser of:
 - (1) The amount actually expended by the district for the provision of special education and related services to that student; or
 - (2) The amount representing four ~~and one-half~~ times the state average cost of education per student.

SECTION 28. A new section to chapter 15.1-37 of the North Dakota Century Code is created and enacted as follows:

North Dakota early childhood learning council - Membership - Terms.

1. The North Dakota early childhood learning council consists of:
 - a. A chairman appointed by the governor;
 - b. The superintendent of public instruction, or the superintendent's designee;
 - c. The state health officer, or the officer's designee;
 - d. The director of the department of human services, or the director's designee;
 - e. The chairman of the senate education committee, or the chairman's designee;
 - f. The chairman of the house of representatives education committee, or the chairman's designee; and
 - g. The following gubernatorial appointees:
 - (1) The superintendent of a school district having at least one thousand students in average daily membership;

- (2) The superintendent of a school district having fewer than one thousand students in average daily membership;
 - (3) The superintendent of a school district headquartered on a reservation or including reservation land within its boundaries;
 - (4) The principal of a school district;
 - (5) An individual employed as an elementary school teacher;
 - (6) An individual representing a non-religious-based provider of preschool education;
 - (7) An individual representing a religious-based provider of preschool education;
 - (8) An individual representing a center-based licensed child care provider;
 - (9) An individual representing a home-based licensed child care provider;
 - (10) An individual representing a reservation-based head start program;
 - (11) An individual representing a non-reservation-based head start program;
 - (12) An elected member of a school board;
2. a. The term of each member enumerated in subdivision g of subsection 1 is three years and begins on July first. The terms must be staggered by lot so that four of the terms expire each year.
- b. If at any time during a member's term the member ceases to possess the qualifications required by this section, the member's seat is deemed vacant and the governor shall appoint another qualified individual to serve for the remainder of the term.
- c. A member may not serve more than two consecutive terms. If an individual is appointed to complete a vacancy, that service is not counted as a term, for purposes of this section, unless the duration of that service exceeds one year.
3. The council shall meet at least twice each year, at the call of the chairman.

SECTION 29. A new section to chapter 15.1-37 of the North Dakota Century Code is created and enacted as follows:

Council - Duties. The council shall:

1. Review the delivery of early childhood education in this state;
2. Conduct a needs assessment;

- 1 3. Review early childhood learning standards and propose revisions to the standards
- 2 as needed;
- 3 4. Review opportunities for public and private sector collaboration in the delivery of
- 4 early childhood education in this state;
- 5 5. Develop a comprehensive plan governing the delivery of early childhood education
- 6 in this state; and
- 7 6. Provide a biennial report regarding its activities to the governor and the legislative
- 8 council.

9 **SECTION 30.** A new section to chapter 15.1-37 of the North Dakota Century Code is
10 created and enacted as follows:

11 **Council members - Reimbursement for expenses.** Each member of the council is
12 entitled to receive reimbursement for expenses as provided by law for state officers if the
13 member is attending meetings or performing duties directed by the council.

14 **SECTION 31. AMENDMENT.** Section 15.1-37-01 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **15.1-37-01. Early childhood education program - Approval.** Any person or school
17 district operating an early childhood education program may request approval of the program
18 from the superintendent of public instruction. The superintendent shall approve an early
19 childhood education program if the program:

- 20 1. Is taught by individuals who are licensed to teach in early childhood education by
- 21 the education standards and practices board;
- 22 2. Follows a developmentally appropriate curriculum; and
- 23 3. Is in compliance with all municipal and state health, fire, and safety requirements.

24 ~~Per student funding will not be provided to individuals or school districts offering a~~
25 ~~prekindergarten program.~~

26 **SECTION 32.** A new section to chapter 15.1-37 of the North Dakota Century Code is
27 created and enacted as follows:

28 **Early childhood education program - Eligibility for per student payments.** To be
29 eligible for funding under subdivision j of subsection 1 of section 15.1-27-03.1, an approved
30 early childhood program must:

- 1 1. Use a screening test approved by the superintendent of public instruction to ensure
- 2 the developmental readiness of each student seeking admission to the program;
- 3 2. Limit enrollment in the program to students who have reached the age of four
- 4 before September first of the year of enrollment and who are not enrolled in an
- 5 approved kindergarten program; and
- 6 3. Be operated by or on behalf of a school district.

7 **SECTION 33. USE OF NEW MONEY - TEACHER COMPENSATION INCREASES -**
8 **REPORTS TO LEGISLATIVE COUNCIL.**

- 9 1. During the 2009-11 biennium, the board of each school district shall use an amount
- 10 equal to at least seventy percent of all new money received by the district for per
- 11 student payments to increase the compensation paid to teachers and to provide
- 12 compensation to teachers who begin employment with the district on or after
- 13 July 1, 2009.
- 14 2. For purposes of this section, the superintendent of public instruction shall calculate
- 15 the amount of new money received by a district during the 2009-11 biennium by:
- 16 a. Determining the total amount of state dollars received by each district during
- 17 the 2007-09 biennium as per student payments, provided that neither equity
- 18 payments under section 15.1-27-11, transportation payments, mill levy
- 19 reduction payments, nor contingency distributions are to be included in the
- 20 total;
- 21 b. Determining the total amount of state dollars received by each district during
- 22 the 2009-11 biennium as per student payments, provided that neither equity
- 23 payments under section 15.1-27-11, transportation payments, nor
- 24 contingency distributions are to be included in the total; and
- 25 c. Subtracting the amount arrived at under subdivision a from the amount arrived
- 26 at under subdivision b.
- 27 3. School districts providing educational services under a cooperative agreement
- 28 approved by the superintendent of public instruction must be treated as a single
- 29 district for purposes of this section.
- 30 4. a. This section does not apply to a school district if the board of the school
- 31 district, after a public hearing at which public testimony and documentary

evidence are accepted, determines in its discretion and by an affirmative vote of two-thirds of the members of the board that complying with subsection 1 would place the school district in the position of having insufficient fiscal resources to meet the school district's other obligations.

b. Within ten days of the vote required by subdivision a, the school board shall notify the superintendent of public instruction of its action and shall file a report detailing the grounds for its determination and action.

c. The superintendent of public instruction shall report all notices received under this subsection to the legislative council.

SECTION 34. TRANSPORTATION GRANTS - DISTRIBUTION.

1. During each year of the 2009-11 biennium, the superintendent of public instruction shall calculate the payment to which each school district is entitled based on the state transportation formula as it existed on June 30, 2001, except that the superintendent shall provide reimbursement at the rate of:

a. Eighty-one cents per mile for schoolbuses having a capacity of ten or more passengers;

b. Forty-two cents per mile for vehicles having a capacity of nine or fewer passengers; and

c. Twenty-two cents per student for each one-way trip, provided that a "student" includes a participant in an early childhood education program that is eligible for funding under section 15.1-27-03.1.

2. The superintendent of public instruction shall use the latest available student enrollment count in each school district in applying the provisions of the transportation formula as it existed on June 30, 2001.

3. If any moneys provided for transportation payments in the grants - transportation line item in the appropriation bill for the superintendent of public instruction, as approved by the sixty-first legislative assembly, remain after application of the formula provided for in this section, the superintendent of public instruction shall prorate the remaining amounts according to the percentage of the total transportation formula amount to which each school district is entitled.

4. This section does not authorize the reimbursement of any costs incurred in providing transportation for student attendance at extracurricular activities or events.

SECTION 35. SCHOOL DISTRICT REORGANIZATION PLANNING GRANTS. The superintendent of public instruction may expend up to \$100,000 from the grants - state school aid line item in the appropriation bill for the superintendent of public instruction, as approved by the sixty-first legislative assembly, for the purpose of providing planning grants to school districts participating in reorganizations under chapter 15.1-12, for the biennium beginning July 1, 2009, and ending June 30, 2011. A grant provided under this section may not exceed \$25,000 and may not be awarded unless the student and the recipient districts vote not to reorganize, the superintendent of public instruction shall withhold the grant amount that each district received under this section from any state aid payable to the district.

SECTION 36. REGIONAL EDUCATION ASSOCIATIONS - GRANTS. During each year of the 2009-11 biennium, the superintendent of public instruction shall expend up to \$200,000 from the grants - state school aid line item in the appropriation bill for the superintendent of public instruction, as approved by the sixty-first legislative assembly, for the purpose of providing grants in the amount of \$25,000, to each group of school districts which has been designated as a regional education association under section 15.1-09.1-02. Before September first of each year, the superintendent of public instruction shall divide each grant by the number of school districts in the respective association and forward that portion of each school district's individual grant directly to the association in which the district participates.

**SECTION 37. APPROPRIATION - SCHOOL DISTRICT - DEFERRED
MAINTENANCE AND PHYSICAL PLANT IMPROVEMENT GRANTS.**

1. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$10,000,000, or so much of the sum as may be necessary, to the superintendent of public instruction for the purpose of awarding to eligible school districts deferred maintenance and physical plant improvement grants, in accordance with the provisions of this section, for the biennium beginning July 1, 2009, and ending June 30, 2011.
2. If the office of management and budget determines by July 31, 2010, that the June 30, 2011, ending balance of the state general fund will be more than

\$30,000,000 in excess of the amount predicted by the office of management and budget at the conclusion of the 2009 legislative session, the superintendent of public instruction shall forward to each eligible school district:

- a. Twenty thousand dollars; plus
- b. The school district's pro rata share of the remaining appropriation, calculated by using the latest available average daily membership of each school district.

3. If the general fund balance requirements of subsection 2 are not met if the office of management and budget determines by April 30, 2011, that the June 30, 2011, ending balance of the state general fund will be more than \$30,000,000 in excess of the amount predicted by the office of management and budget at the conclusion of the 2009 legislative session, the superintendent of public instruction shall forward to each eligible school district:

- a. Twenty thousand dollars; plus
- b. The school district's pro rata share of the remaining appropriation, calculated by using the latest available average daily membership of each school district.

4. Each school district accepting funds under this section shall apply those funds toward deferred maintenance and physical plant improvements and by June 30, 2012, shall:

- a. Submit to the superintendent of public instruction documentation indicating the appropriate expenditure of the funds; or
- b. Return the funds to the superintendent of public instruction for deposit in the general fund.

5. For purposes of this section, an "eligible school district" is a school district that:

- a. Has a general fund levy equal to at least one hundred fifty mills;
- b. Is not precluded from receiving state aid by the provisions of section 15.1-27-35.3; and
- c. Provides an equal monetary match for any amount received under this section.

SECTION 38. AMENDMENT. Section 55 of chapter 163 of the 2007 Session Laws is amended and reenacted as follows:

SECTION 55. CONTINGENT MONEY - 2007-09.

1. In determining the availability of contingent money under this section, the superintendent of public instruction shall first add to the money in the grants - state school aid line item in Senate Bill No. 2013, as approved by the sixtieth legislative assembly, any money that was appropriated to the superintendent for special education contracts in Senate Bill No. 2013 and which remains after the superintendent complied with all statutory special education contract payment obligations imposed for the biennium beginning July 1, 2007, and ending June 30, 2009.
2. If any money that was appropriated to the superintendent of public instruction for state aid payments to school districts or added to the grants - state school aid line item in accordance with subsection 1 remains after the superintendent complies with all statutory payment obligations imposed for the biennium beginning July 1, 2007, and ending June 30, 2009, the superintendent shall:
 - ~~4.~~ a. Use the first \$1,000,000, or so much of that amount as may be necessary, to pay any state obligations in excess of the amount appropriated for special education contract charges;
 - ~~2.~~ b. Use the next \$2,000,000, or so much of that amount as may be necessary, for the purpose of providing additional per student payments to school districts participating in regional education associations under chapter 15.1-09.1;
 - ~~3.~~ c. Use the next \$550,000, or so much of that amount as may be necessary, for the purpose of providing additional payments to school districts serving English language learners and new immigrant English language learners, in accordance with chapter 15.1-38;
 - ~~4.~~ d. Use the next \$200,000, or so much of that amount as may be necessary, for the purpose of providing additional payments to school districts offering an adult education program during the 2007-09 biennium; and
 - ~~5.~~ e. Use the remainder of the moneys to provide additional per student payments on a prorated basis according to the latest available average daily membership of each school district.

SECTION 39. CONTINGENT MONEY - 2009-11.

1 1. In determining the availability of contingent money under this section, the
2 superintendent of public instruction shall first add to the money in the grants - state
3 school aid line item in the appropriation bill for the superintendent of public
4 instruction, as approved by the sixty-first legislative assembly, any money that was
5 appropriated to the superintendent for special education contracts and which
6 remains after the superintendent complied with all statutory special education
7 contract payment obligations imposed for the biennium beginning July 1, 2009, and
8 ending June 30, 2011.

9 2. If any money that was appropriated to the superintendent of public instruction for
10 grants - state aid payments to school districts or added to the grants - state school
11 aid line item in accordance with subsection 1 remains after the superintendent
12 complies with all statutory payment obligations imposed for the biennium beginning
13 July 1, 2009, and ending June 30, 2011, the superintendent shall use the money to
14 provide additional per student payments on a prorated basis according to the latest
15 available average daily membership of each school district.

16 **SECTION 40. CONTINGENT TRANSFER BY BANK OF NORTH DAKOTA FOR**
17 **SPECIAL EDUCATION.** If during the biennium beginning July 1, 2009, and ending June 30,
18 2011, the superintendent of public instruction determines that, using all available sources, there
19 are insufficient funds with which to fully reimburse school districts for the excess costs of
20 serving the one percent of special education students statewide who require the greatest school
21 district expenditures in order to be provided with special education and related services, the
22 industrial commission shall transfer from the earnings and accumulated and undivided profits of
23 the Bank of North Dakota the amount the superintendent of public instruction certifies is
24 necessary to provide the statutorily required level of reimbursement. The superintendent of
25 public instruction shall file for introduction legislation requesting that the sixty-second legislative
26 assembly return any amount transferred under this section to the Bank of North Dakota.

27 **SECTION 41. REPEAL.** Sections 15.1-21-02.2, 15.1-27-20.1, and 15.1-38-01.2 of the
28 North Dakota Century Code are repealed.

29 **SECTION 42. EMERGENCY.** Section 38 is declared to be an emergency measure.