

ELEMENTARY AND SECONDARY EDUCATION

CHAPTER 152

SENATE BILL NO. 2083

(Education Committee)

(At the request of the Superintendent of Public Instruction)

SCHOOL DISTRICT FINANCE FACTS REPORT

AN ACT to amend and reenact sections 15.1-02-09 and 15.1-02-10 of the North Dakota Century Code, relating to the contents and distribution of the school district finance facts report.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-02-09 of the North Dakota Century Code is amended and reenacted as follows:

15.1-02-09. Biennial School district finance facts report - Contents. The superintendent of public instruction shall submit a ~~biennial~~ annual report on the financial condition of school districts to the governor, legislative council, and the secretary of state ~~in accordance with section 54-06-04~~ by the end of February. The secretary of state shall transmit the report to state archivist for official and public use. ~~The superintendent shall report~~ must include in the report:

1. The number of school districts in the state.
2. The financial condition of each school district, including its receipts and expenditures.
3. The value of all property owned or controlled by each school district.
4. The cost of education in each school district.
5. The number of teachers employed by each school district and their salaries.
6. The number of students in average daily membership and average daily attendance in each school district, the grades in which they are enrolled, and, when applicable, the courses in which they are enrolled.
7. Information regarding the state's approved nonpublic schools.
8. Other statistical data on public education in the state.

SECTION 2. AMENDMENT. Section 15.1-02-10 of the North Dakota Century Code is amended and reenacted as follows:

15.1-02-10. Biennial School district finance facts report - Distribution.

The superintendent of public instruction shall make the ~~biennial~~ annual school district finance facts report available to each member of the legislative assembly upon request. ~~The superintendent shall provide a copy of the report to each state officer and to the legislative council.~~ The superintendent shall provide eight copies of the report to the state library. The superintendent shall make the report available to the public on the superintendent of public instruction's web site.

Approved March 7, 2005

Filed March 8, 2005

CHAPTER 153

SENATE BILL NO. 2066

(Senators Flakoll, Freborg, Brown)

(Representatives Hawken, N. Johnson, L. Meier)

SCHOOL DISTRICT INSTRUCTIONAL DAYS

AN ACT to amend and reenact section 15.1-06-05 of the North Dakota Century Code, relating to reconfiguration of instructional days by school districts; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-06-05 of the North Dakota Century Code is amended and reenacted as follows:

15.1-06-05. Instructional days - Reconfiguration - Application.

1. A school district may apply to the superintendent of public instruction for permission to reconfigure the number of instructional days required by section 15.1-06-04.
2. The superintendent of public instruction may approve an application under subsection 1 only if the reconfiguration of the required number of instructional days:
 - a. ~~(4)~~ Makes available to each of the school district's elementary students at least nine hundred fifty-one and one-half hours of instructional time and makes available to each of the district's high school students at least one thousand thirty-eight hours of instructional time; and
 - ~~(2)~~ Does not reduce the hours of instructional time below the level made available to elementary students and high school students, respectively, by the school district during the last school year completed prior to the date of the application; and
 - b.
 - (1) Encourages innovation;
 - (2) Provides improved educational opportunities or enhanced academic opportunities for the students;
 - (3) Provides for greater flexibility in the use of a school by current students;
 - (4) Provides for greater flexibility in the use of a school by individuals or groups other than current students; or
 - (5) Results in significant cost-savings to the district.
3. A reconfiguration of instructional days approved by the superintendent of public instruction under this section is valid for one school year. A

school district may apply to the superintendent for permission to extend the reconfiguration of instructional days for one additional year. If granted, the first extension after the initial year is valid for one school year. All extensions thereafter are valid for five school years.

4. If the superintendent of public instruction approves a district's application for reconfiguration of instructional time under this section, the district is eligible to receive the per student payments provided under chapter 15.1-27.
5. The superintendent of public instruction shall adopt rules governing the submission and evaluation of applications and the monitoring of any school or school district that receives a waiver under this section.
6. A reconfiguration of instructional days approved by the superintendent of public instruction under this section satisfies the requirements for school operation and instructional time required by law.
7. A reconfiguration of instructional days approved by the superintendent of public instruction under this section does not affect the accrual of teachers' benefits provided by law.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 14, 2005
Filed March 14, 2005

CHAPTER 154

HOUSE BILL NO. 1228

(Representatives Delmore, Hawken, Mueller)
(Senators Flakoll, G. Lee, Taylor)

SCHOOL MONEY DISBURSEMENT POLICIES

AN ACT to amend and reenact section 15.1-07-12 of the North Dakota Century Code, relating to the disbursement of moneys by a school district business manager.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-07-12 of the North Dakota Century Code is amended and reenacted as follows:

15.1-07-12. Negotiable instruments - ~~Payment~~ Disbursement of moneys by business manager. ~~The~~

1.
 - a. The board of a school district may adopt policies governing the disbursement of school district moneys by the business manager.
 - b. The policies adopted under subdivision a may include:
 - (1) The authorization, creation, and approval of negotiable instruments;
 - (2) The use of credit or debit cards;
 - (3) The payment of invoices;
 - (4) The use of petty cash;
 - (5) The use of electronic payments; and
 - (6) The use of facsimile signatures.
 - c. The policies adopted under subdivision a must include internal controls to safeguard school district moneys.
2. If the board of a school district has not adopted policies to govern the disbursement of school district moneys by the business manager, the business manager ~~shall pay out~~ may disburse moneys only ~~upon the presentation~~ by issuance of a negotiable instrument ~~upon presentation of a bill or invoice, the payment of which has been authorized by the president of the school board,~~ and only if there ~~is are~~ sufficient ~~money~~ moneys available for the ~~payment~~ disbursement. Upon issuing a negotiable instrument, the business manager shall make a record of the instrument.

CHAPTER 155

SENATE BILL NO. 2226

(Senators Espgaard, Freborg)
(Representative Delmore)

SCHOOL BOARD LEASES AND PERSONNEL

AN ACT to amend and reenact section 15.1-09-33 of the North Dakota Century Code, relating to the power of school boards to lease property and dismiss certain personnel.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁹⁹ **SECTION 1. AMENDMENT.** Section 15.1-09-33 of the North Dakota Century Code is amended and reenacted as follows:

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, to have custody and control of all public school property in the city 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 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.
8. Exercise the power of eminent domain to acquire real property for school purposes.

⁹⁹ Section 15.1-09-33 was also amended by section 1 of House Bill No. 1233, chapter 157, and section 1 of Senate Bill No. 2062, chapter 156.

9. Purchase, sell, exchange, and if appropriate, improve school, 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. Suspend school district personnel.
23. Dismiss school district personnel ~~for cause~~.
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 a school district business manager.
28. Suspend or dismiss a school district business manager for cause without prior notice.

29. Suspend or 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.
32. Amend and certify budgets and tax levies, as provided in title 57.
33. Pay membership dues to county and state associations.
34. Designate, at its annual meeting, a newspaper of general circulation as the official newspaper of the district.

Approved March 16, 2005

Filed March 17, 2005

CHAPTER 156

SENATE BILL NO. 2062

(Senators J. Lee, Brown, G. Lee)
(Representatives Belter, Wieland, Koppelman)

FARGO SCHOOL BOARD JURISDICTION

AN ACT to amend and reenact sections 15.1-09-33, 15.1-09-48, and 15.1-09-50 of the North Dakota Century Code, relating to powers of the board of education of the city of Fargo.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁰⁰ **SECTION 1. AMENDMENT.** Section 15.1-09-33 of the North Dakota Century Code is amended and reenacted as follows:

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, ~~to~~ have custody and control of all public school property in the city 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 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.

¹⁰⁰ Section 15.1-09-33 was also amended by section 1 of House Bill No. 1233, chapter 157, and section 1 of Senate Bill No. 2226, chapter 155.

8. Exercise the power of eminent domain to acquire real property for school purposes.
9. Purchase, sell, exchange, and if appropriate, improve school 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. Suspend school district personnel.
23. Dismiss school district personnel for cause.
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 a school district business manager.

28. Suspend or dismiss a school district business manager for cause without prior notice.
29. Suspend or 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.
32. Amend and certify budgets and tax levies, as provided in title 57.
33. Pay membership dues to county and state associations.
34. Designate, at its annual meeting, a newspaper of general circulation as the official newspaper of the district.

SECTION 2. AMENDMENT. Section 15.1-09-48 of the North Dakota Century Code is amended and reenacted as follows:

15.1-09-48. Board of education of city of Fargo - Tax collection. The board of education of the city of Fargo has the power to levy taxes within the boundaries of the Fargo public school district and to cause such taxes to be collected in the same manner as other city taxes. The board of education shall cause the rate for each purpose to be certified by the business manager to the city auditor in time to be added to the annual tax list of the city. It is the duty of the city auditor to calculate and extend upon the annual assessment roll and tax list any tax levied by the board of education. The tax must be collected as other city taxes are collected. 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 cause an assessment roll and tax list to be made 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.

SECTION 3. AMENDMENT. Section 15.1-09-50 of the North Dakota Century Code is amended and reenacted as follows:

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 in the city and within the boundaries of the Fargo public school district; to change and discontinue the schools; and to liquidate the assets of the discontinued schools outside the district boundaries, 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 in the city 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 of the city 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.

Approved March 14, 2005

Filed March 14, 2005

CHAPTER 157

HOUSE BILL NO. 1233

(Representatives N. Johnson, Delmore)
(Senators Brown, Flakoll, Wardner)

SCHOOL BOARD MEMBERSHIP DUES

AN ACT to amend and reenact section 15.1-09-33 of the North Dakota Century Code, relating to school board membership dues.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁰¹ **SECTION 1. AMENDMENT.** Section 15.1-09-33 of the North Dakota Century Code is amended and reenacted as follows:

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, to have custody and control of all public school property in the city 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 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.
8. Exercise the power of eminent domain to acquire real property for school purposes.

¹⁰¹ Section 15.1-09-33 was also amended by section 1 of Senate Bill No. 2062, chapter 156, and section 1 of Senate Bill No. 2226, chapter 155.

9. Purchase, sell, exchange, and if appropriate, improve school 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. Suspend school district personnel.
23. Dismiss school district personnel for cause.
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 a school district business manager.
28. Suspend or dismiss a school district business manager for cause without prior notice.

29. Suspend or 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.
32. Amend and certify budgets and tax levies, as provided in title 57.
33. Pay dues allowing for the board to hold membership dues to in city, county and state, and national organizations and associations.
34. Designate, at its annual meeting, a newspaper of general circulation as the official newspaper of the district.

Approved March 15, 2005

Filed March 16, 2005

CHAPTER 158**HOUSE BILL NO. 1232**

(Representatives Froelich, D. Johnson, R. Kelsch)
(Senators Flakoll, Seymour)

STUDENT TEACHER STIPENDS

AN ACT to create and enact a new section to chapter 15.1-09 of the North Dakota Century Code, relating to stipends for student teachers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 15.1-09 of the North Dakota Century Code is created and enacted as follows:

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.

Approved March 21, 2005
Filed March 22, 2005

CHAPTER 159

HOUSE BILL NO. 1160

(Education Committee)

(At the request of the Superintendent of Public Instruction)

SCHOOL DISTRICT UNEMPLOYMENT BENEFITS

AN ACT to create and enact sections 15.1-12-18.1 and 15.1-12-26.1, a new subsection to section 15.1-12-27, and section 15.1-12-28.1 of the North Dakota Century Code, relating to the reimbursement by reorganized and dissolving school districts of unemployment compensation benefits paid by job service North Dakota; and to amend and reenact sections 15.1-12-11 and 15.1-12-28 and subsection 1 of section 15.1-12-29 of the North Dakota Century Code, relating to notification of job service North Dakota, the distribution of a fund of the dissolved school district, and the credit to taxpayers of the dissolved school district.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-12-11 of the North Dakota Century Code is amended and reenacted as follows:

15.1-12-11. School district reorganization - Approved plan - Special election - Formation of new district.

1. If the state board approves a reorganization plan, the state board shall notify each county superintendent of schools having jurisdiction over real property in the proposed new district. A county superintendent receiving notice under this section shall call a special election in order that the electors residing within the boundaries of the proposed new district may approve or reject the reorganization plan. The election must be held between July first and December thirty-first of the year in which the plan is approved by the state board. If there are insufficient days left in the year to meet the notice requirements of this section, the election must be held the following year.
2. If the state board approves a reorganization plan, the state board shall notify job service North Dakota of the names of the school districts planning to reorganize, the election date proposed in the reorganization plan, the proposed effective date of the reorganization, and the proposed name of the new reorganized school district.
3. The county superintendent shall give notice of the election by publishing the time, date, and place of the election in the official newspaper of the county, at least fourteen days before the date of the election.
- ~~3.~~ 4. The election notice must:
 - a. State that the election has been called for the purpose of approving or rejecting a plan to form a new school district;
 - b. Describe the boundaries of the proposed new district; and

- c. Include a statement describing the adjustment of property, debts, and liabilities proposed in the plan, together with the proposed tax levy.
4. 5. The county superintendent shall appoint judges and clerks of the election. The election must be conducted in the same manner and the polls must open and close at the same time as specified for school district elections.
5. 6. The result of the elections must be certified by the participating school boards and delivered to the county superintendent within three days after the closing of the polls.
6. 7. If a majority of electors residing within each school district vote to approve the reorganization plan, the county superintendent shall make the necessary adjustments of property, debts, and liabilities and perform all duties required by law in order to establish and organize the new school district. The county superintendent shall also notify job service North Dakota regarding the results of the election and, if the reorganization is approved, shall indicate the effective date of the reorganization and the name of the new reorganized school district.

SECTION 2. Section 15.1-12-18.1 of the North Dakota Century Code is created and enacted as follows:

15.1-12-18.1. Reorganizing school districts to contact job service North Dakota - Liability of new reorganized school district for reimbursement of unemployment compensation benefits paid. The reorganizing school districts shall contact job service North Dakota for its estimation of the new reorganized school district's potential obligation to job service North Dakota for reimbursement of unemployment compensation benefits that could potentially be paid by job service North Dakota to employees of the reorganizing school districts. The new reorganized school district shall reimburse job service North Dakota for unemployment compensation benefits paid by job service North Dakota to former employees of the school districts which reorganized and for which the reorganizing school districts would have been liable, including any delinquent reimbursement payments.

SECTION 3. Section 15.1-12-26.1 of the North Dakota Century Code is created and enacted as follows:

15.1-12-26.1. Dissolving school district to contact job service North Dakota. Before the hearing before the county committee, the dissolving school district shall contact job service North Dakota for its estimation of the school district's potential obligation to job service North Dakota for reimbursement of unemployment compensation benefits that could potentially be paid by job service North Dakota to school district employees.

¹⁰² **SECTION 4.** A new subsection to section 15.1-12-27 of the North Dakota Century Code is created and enacted as follows:

¹⁰² Section 15.1-12-27 was also amended by section 7 of House Bill No. 1154, chapter 167.

The state board shall provide a copy of its final findings of fact, conclusions of law, and order regarding the dissolution to job service North Dakota. If not otherwise included in the findings of fact, the state board shall also provide job service North Dakota with information on the distribution and valuation of property from the dissolving district to the receiving districts.

SECTION 5. AMENDMENT. Section 15.1-12-28 of the North Dakota Century Code is amended and reenacted as follows:

15.1-12-28. Dissolution of school district - Unobligated cash balance - Distribution.

1. Any unobligated cash balance not exceeding ten thousand dollars must be held in a separate fund by the auditor of the county having the greatest share of the dissolved school district's land. The county auditor shall hold the fund for one year after the effective date of the dissolution. During that year, the county auditor shall accept assets and pay unresolved debts attributable to the dissolved school district.
2. After one year, the county auditor shall distribute the remaining cash balance as follows:
 - a. If the dissolving school district did not have sufficient funds for the reimbursement account set up under section 15.1-12-28.1, then as much of the remaining cash balance as would be necessary to pay the estimated obligation to job service North Dakota must be deposited in the reimbursement account. Unless otherwise directed by the order of dissolution, any remaining cash balance must be distributed to the receiving school districts in the same percentage as the taxable valuation received at the time of the attachment order.
 - b. If the reimbursement account in section 15.1-12-28.1 was fully funded by the dissolving school district, the county auditor shall distribute the remaining cash balance among the school districts to which the real property of the dissolved district was attached. Unless otherwise directed by the order of dissolution, the distribution to each shall be the same percentage as the taxable valuation at the time of the attachment order.

SECTION 6. Section 15.1-12-28.1 of the North Dakota Century Code is created and enacted as follows:

15.1-12-28.1. Dissolving school district to set up reimbursement account for benefit of job service North Dakota - Liability of receiving school districts if funds are insufficient.

1. After the dissolution is approved by the state board and after ten thousand dollars is set aside as provided for in section 15.1-12-28, the school district shall set aside in a reimbursement account the amount of money estimated by job service North Dakota to reimburse job service North Dakota for unemployment compensation benefits that could potentially be paid by job service North Dakota to school district employees, as indicated in section 15.1-12-26.1. The school district shall set aside that money in a reimbursement account with the North

Dakota school boards association or with the county auditor and shall notify job service North Dakota of the account's location.

2. The money must be held for two and one-half years from the effective date of the dissolution and must be used to reimburse job service North Dakota for unemployment compensation benefits paid by job service North Dakota to former employees of the dissolved school district for which the dissolved school district would have been liable, including any delinquent reimbursement payments.
3. After the two and one-half year period, moneys remaining in the account must be distributed to the school districts that received the dissolving school district's land, in the same proportion as taxable valuation received by the school districts.
4. If the money in the account is not sufficient to reimburse job service North Dakota for all unemployment compensation claims paid, then the school districts that received the dissolving school district's land must pay the balance to job service North Dakota in the same proportion as taxable valuation received by the school districts.

¹⁰³ **SECTION 7. AMENDMENT.** Subsection 1 of section 15.1-12-29 of the North Dakota Century Code is amended and reenacted as follows:

1. Any unobligated cash balance ~~in excess of~~ remaining after ten thousand dollars is set aside under section 15.1-12-28 and the required amount is deposited in the reimbursement account for job service North Dakota under section 15.1-12-28.1 is a credit for real property owners within the boundaries of the dissolved school district against taxes levied by the district in which their property is now situated. The county auditor shall base the credit on the five-year average of the total mills levied for education by the dissolved district. If property from the dissolved district is attached to more than one school district, the credit that eligible real property owners receive must be the same percentage of the unobligated cash balance as the taxable valuation of the individual's property bears to the total taxable valuation of the dissolved district's property at the time of the attachment order.

Approved March 4, 2005

Filed March 4, 2005

¹⁰³ Section 15.1-12-29 was also amended by section 8 of House Bill No. 1154, chapter 167.

CHAPTER 160**SENATE BILL NO. 2375**

(Senators Brown, Flakoll)
(Representatives Carlson, Grande)

UNIFIED CREDENTIAL SYSTEM

AN ACT relating to a unified system of licensure and credential qualifications or reciprocity between North Dakota and each state bordering North Dakota.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Educational standards and practices board - Unified credential system. The educational standards and practices board, in cooperation with the department of public instruction, shall enter discussions with officials from each state bordering North Dakota to develop a unified system of licensure and credential qualifications or reciprocity between the states. The board shall report its progress, findings, and any pending action to the sixtieth legislative assembly.

Approved April 6, 2005
Filed April 6, 2005

CHAPTER 161

HOUSE BILL NO. 1358

(Representatives Herbel, Haas, Hanson, Williams)
(Senators Freborg, G. Lee)

TEACHER CONTRACT APPLICABILITY

AN ACT to amend and reenact section 15.1-15-12 of the North Dakota Century Code, relating to the applicability of teacher and administrator contracts; and to repeal section 15.1-15-03 of the North Dakota Century Code, relating to the employment of teachers and administrators after January first.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-15-12 of the North Dakota Century Code is amended and reenacted as follows:

15.1-15-12. Nonapplicable provisions. This chapter does not apply to:

1. Any individual employed to teach at an institution of higher education under the control of the state board of higher education;
2. Any individual employed to teach at the youth correctional center, North Dakota vision services - school for the blind, or the school for the deaf; ~~and~~
3. Any individual who replaces a teacher, a principal, or an assistant or associate superintendent while that teacher, principal, or assistant or associate superintendent is on a leave of absence or a sabbatical; and
4. Any individual employed by a school district as a teacher, a principal, an assistant superintendent, or an associate superintendent, provided the individual's term of employment begins on or after January first and does not extend beyond June thirtieth of the same school year.

SECTION 2. REPEAL. Section 15.1-15-03 of the North Dakota Century Code is repealed.

Approved March 9, 2005
Filed March 9, 2005

CHAPTER 162

SENATE BILL NO. 2210

(Senators Kringstad, Lyson, Robinson)
(Representatives Haas, L. Meier, Sitte)

EDUCATION FACTFINDING COMMISSION COMPENSATION

AN ACT to amend and reenact sections 15.1-16-03 and 15.1-16-04 of the North Dakota Century Code, relating to compensation for factfinders and members of the education factfinding commission.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-16-03 of the North Dakota Century Code is amended and reenacted as follows:

15.1-16-03. Education factfinding commission - Compensation. Each member of the commission is entitled to receive compensation at the rate of ~~eighty~~ ninety dollars per day and reimbursement for expenses, as provided by law for state officers, for attending commission meetings or performing duties directed by the commission.

SECTION 2. AMENDMENT. Section 15.1-16-04 of the North Dakota Century Code is amended and reenacted as follows:

15.1-16-04. Education factfinders - Compensation. Each factfinder appointed by the education factfinding commission, other than a commission member who serves as a factfinder, is entitled to receive compensation at the rate of ~~eighty~~ ninety dollars per day and reimbursement for expenses, as provided by law for state officers, for attending commission meetings or performing duties directed by the commission.

Approved March 14, 2005

Filed March 14, 2005

CHAPTER 163

HOUSE BILL NO. 1076

(Education Committee)

(At the request of the Education Standards and Practices Board)

TEACHING LICENSES AND ESPB APPROVAL

AN ACT to create and enact a new section to chapter 15.1-09 and a new section to chapter 15.1-18 of the North Dakota Century Code, relating to approval of teachers by the education standards and practices board; and to amend and reenact sections 15.1-06-06, 15.1-13-13, 15.1-18-02, 15.1-18-07, 15.1-18-08, 15.1-18-09, 15.1-18-10, and 15.1-18.1-02 of the North Dakota Century Code, relating to teaching licenses and the approval of teachers by the education standards and practices board.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁰⁴ **SECTION 1. AMENDMENT.** Section 15.1-06-06 of the North Dakota Century Code is amended and reenacted as follows:

15.1-06-06. Approval of public and nonpublic schools. Each public and nonpublic school in this state offering elementary or secondary education to students must be approved by the superintendent of public instruction. Except as otherwise provided by law, the superintendent may not approve a school unless:

1. Each classroom teacher ~~holds a valid teaching certificate issued is licensed to teach by the education standards and practices board or approved to teach~~ by the education standards and practices board;
2. Each classroom teacher is teaching only in those course areas or fields for which the teacher is licensed or for which the teacher has received an exception under section 2;
3. The students are offered all subjects required by law; and
3. 4. The school is in compliance with all local and state health, fire, and safety laws.

SECTION 2. A new section to chapter 15.1-09 of the North Dakota Century Code is created and enacted as follows:

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

¹⁰⁴ Section 15.1-06-06 was also amended by section 12 of House Bill No. 1015, chapter 15, and section 2 of House Bill No. 1154, chapter 167.

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.

SECTION 3. AMENDMENT. Section 15.1-13-13 of the North Dakota Century Code is amended and reenacted as follows:

15.1-13-13. Provisional teaching license - Period of effectiveness - Renewal. The board may issue a provisional teaching license to an applicant awaiting, pending completion of the background check required by section 15.1-13-14 or pending the receipt of official transcripts or other original, signed, or certified documents. The provisional license is valid for a period of forty days and may be renewed with the approval of the board. The board may adopt rules governing the issuance of a provisional teaching license. An individual applying for a provisional teaching license may be charged a fee established by the board. However, an individual applying for the renewal of a provisional teaching license may not be charged a fee.

SECTION 4. AMENDMENT. Section 15.1-18-02 of the North Dakota Century Code is amended and reenacted as follows:

15.1-18-02. (Effective through June 30, 2006) Kindergarten through grade eight - Teacher qualifications - Exceptions.

1. In order to teach kindergarten, an individual must:
 - a. Be licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board and have a kindergarten endorsement; or
 - b. Be licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board and demonstrate to the satisfaction of the education standards and practices board that the individual will obtain a kindergarten endorsement within two years from the date of the assignment to teach kindergarten.
2. In order to teach any grade from one through eight, an individual must:
 - a. Be licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board and have a major, a minor, or an endorsement in elementary education; or
 - b. Be licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board and demonstrate to the satisfaction of the education standards and practices board that the individual will obtain an endorsement in elementary education within two years from the date of the assignment to teach any grade from one through eight.
3. Notwithstanding subsection 2, an individual may teach any grade from five through eight if the individual:
 - a. Is licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board and has a major or an endorsement in middle school education; or
 - b. Is licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board and demonstrates to the satisfaction of the education standards and practices board that the individual will obtain an endorsement in middle school education within two years from the date of assignment to teach any grade from five through eight.
4. Notwithstanding subsection 2, an individual may teach grade seven or eight if the individual is licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board and has a major or a minor in the assigned course area or field.
5. Notwithstanding subsection 2, an individual may teach special education, foreign language, art, music, physical education, business education, and computer education at any grade level from kindergarten through eight, provided the individual is licensed to teach by the education standards and practices board or approved to teach by the

education standards and practices board and meets the requirements imposed by the superintendent of public instruction.

6. An individual may obtain an endorsement by completing teaching requirements and the minimum number of credit hours in courses prescribed by the education standards and practices board.
7. This section does not apply to an eminence-credentialed teacher.

(Effective after June 30, 2006) Prekindergarten and kindergarten teacher qualifications - Exceptions. In order to teach prekindergarten and kindergarten, an individual must be ~~licensed~~:

1. Licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board; and:
- ~~1-~~ 2. a. Have a major in elementary education and a kindergarten endorsement;
 - ~~2-~~ b. Have a major equivalency in elementary education and a kindergarten endorsement;
 - ~~3-~~ c. Have a major in elementary education and an early childhood education endorsement;
 - ~~4-~~ d. Have a major equivalency in elementary education and an early childhood education endorsement;
 - ~~5-~~ e. Have a major in early childhood education; or
 - ~~6-~~ f. Have a major equivalency in early childhood education.

¹⁰⁵ **SECTION 5. AMENDMENT.** Section 15.1-18-07 of the North Dakota Century Code is amended and reenacted as follows:

15.1-18-07. (Effective after June 30, 2006) Elementary school teacher qualifications.

1. In order to teach any grade in an elementary school that offers grades one through six or in order to teach any grade in an elementary school that offers grades one through eight, an individual must be ~~licensed~~:
 - a. Licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board; and:
 - ~~a-~~ b. (1) Have a major in elementary education; or
 - ~~b-~~ (2) Have a major equivalency in elementary education.

¹⁰⁵ Section 15.1-18-07 was also amended by section 9 of House Bill No. 1154, chapter 167.

2. Notwithstanding the provisions of subsection 1, an individual may teach any grade from one through three in an elementary school provided the individual is ~~licensed~~:
 - a. Licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board; and:
 - a- b. (1) Has a major in early childhood education; or
 - b- (2) Has a major equivalency in early childhood education.

SECTION 6. AMENDMENT. Section 15.1-18-08 of the North Dakota Century Code is amended and reenacted as follows:

15.1-18-08. (Effective after June 30, 2006) Middle school teacher qualifications.

1. In order to teach any grade from five through eight in a middle school, an individual must be ~~licensed~~:
 - a. Licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board; and:
 - 4- b. (1) Have a major in middle level education, with content in the areas taught by the individual and defined by the education standards and practices board as core academic areas;
 - 2- (2) Have a major equivalency in middle level education, with content in the areas taught by the individual and defined by the education standards and practices board as core academic areas; or
 - 3- (3) Have a major, a major equivalency, a minor, or a minor equivalency in each area taught by the individual and not defined by the education standards and practices board as a core academic area.
2. Notwithstanding the provisions of subsection 1, an individual may teach grade five or six in a middle school, provided the individual is:
 - a. Licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board; and
 - b. (1) Has a major in elementary education; or
(2) Has a major equivalency in elementary education.

SECTION 7. AMENDMENT. Section 15.1-18-09 of the North Dakota Century Code is amended and reenacted as follows:

15.1-18-09. (Effective after June 30, 2006) High school qualifications. In order to teach grades seven through twelve, an individual must be ~~licensed~~:

1. Licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board; and:
4. 2. a. Have a major in the areas taught by the individual and defined by the education standards and practices board as core academic areas;
2. b. Have a major equivalency in the areas taught by the individual and defined by the education standards and practices board as core academic areas; or
3. c. Have a major, a major equivalency, a minor, or a minor equivalency in each area taught by the individual and not defined by the education standards and practices board as a core academic area.

SECTION 8. AMENDMENT. Section 15.1-18-10 of the North Dakota Century Code is amended and reenacted as follows:

15.1-18-10. (Effective after June 30, 2006) Specialty areas - Teacher qualification. Notwithstanding the requirements of this chapter:

1. An individual may teach art, business education, computer education, a foreign language, music, physical education, ~~and~~ special education, and technology education at any grade level from ~~one~~ kindergarten through grade eight, provided the individual:
 - a. Is licensed to teach by the education standards and practices board;
 - b. Is approved to teach in that area by the education standards and practices board; and
 - c. Meets all requirements set forth in rule by the superintendent of public instruction.
2. An individual may teach Native American languages provided the individual is an eminence-credentialed teacher.
3. An individual may teach in the areas of trade, industry, technical occupations, or health occupations, provided the individual has been issued a license to teach in such areas by the education standards and practices board.

SECTION 9. A new section to chapter 15.1-18 of the North Dakota Century Code is created and enacted as follows:

Rural school districts - Federal flexibility. The education standards and practices board may extend the effective dates for any provision in chapter 15.1-18 if the United States secretary of education by rule, policy, or guidance authorizes such extension.

SECTION 10. AMENDMENT. Section 15.1-18.1-02 of the North Dakota Century Code is amended and reenacted as follows:

15.1-18.1-02. National board certification program - Recertification - Board duties.

1. The board shall:
 4. a. Inform teachers of the national board certification program and the scholarships and services the national board provides to teachers seeking certification.
 2. b. Collect and review in the order received scholarship applications from individuals who are licensed to teach by the board or approved to teach by the board.
 3. a. c. (1) Approve no more than seventeen applications per year under this subsection;
 - b. (2) During each year of the biennium, reserve three of the available scholarships under this subsection for individuals teaching at low-performing schools;
 - e. ~~During each year of the biennium, award no more than two of the remaining fourteen available scholarships to applicants employed by the same school district;~~
 - d. (3) Require the recipient for a scholarship under this subsection to serve during the school year as a full-time classroom teacher in a public or nonpublic school in this state; and
 - e. (4) Require the recipient for a scholarship under this subsection to participate in mentoring programs ~~and teacher evaluation programs~~ developed and implemented in the employing school or school district.
 4. d. Ensure that all scholarship recipients under this subsection receive adequate information regarding the level of commitment required to acquire certification.
2. The board shall collect and review in the order received scholarship applications for national board recertification from individuals who are licensed to teach by the board or approved to teach by the board and:
 - a. Approve no more than two scholarship applications per year under this subsection;
 - b. Require each recipient for a scholarship under this subsection to serve during the school year as a full-time classroom teacher in a public or nonpublic school in this state; and
 - c. Require each recipient for a scholarship under this subsection to participate in mentoring programs developed and implemented in the employing school or school district.
5. 3. If any individual who receives a scholarship under this section does not complete the certification process within the time allotted by the board, the individual must reimburse the state an amount equal to one-half of the amount awarded to the individual as a scholarship.

4. At the conclusion of each of the first four school years after an individual receives national board certification, the individual is entitled to receive an additional one thousand five hundred dollars if:
 - a. The individual served during the school year as a full-time classroom teacher in a public or nonpublic school; and
 - b. The individual participated in any efforts of the employing school district to develop and implement teacher mentoring programs.

Approved April 11, 2005

Filed April 12, 2005

CHAPTER 164

SENATE BILL NO. 2163

(Senators G. Lee, Freborg, Taylor)
(Representatives Hunskor, Porter, Price)

STUDENT SELF-ADMINISTERED MEDICATION

AN ACT to create and enact a new section to chapter 15.1-19 of the North Dakota Century Code, relating to students' possession and self-administration of medication for the treatment of asthma and anaphylaxis.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 15.1-19 of the North Dakota Century Code is created and enacted as follows:

Asthma - Anaphylaxis - Self-administration of medication by student - Liability.

1. A student who has been diagnosed with asthma or anaphylaxis may possess and self-administer emergency medication for the treatment of such conditions provided the student's parent files with the school a document that is signed by the student's health care provider and which:
 - a. Indicates that the student has been instructed in the self-administration of emergency medication for the treatment of asthma or anaphylaxis;
 - b. Lists the name, dosage, and frequency of all medication prescribed to the student for use in the treatment of the student's asthma or anaphylaxis; and
 - c. Includes guidelines for the treatment of the student in the case of an asthmatic episode or anaphylaxis.
2. Neither a private school or a school district nor any employee of the private school or district is liable for civil damages incurred by:
 - a. A student who administers emergency medication to himself or herself in accordance with subsection 1.
 - b. An individual because a student was permitted to possess emergency medication in accordance with subsection 1.
3. For purposes of this section, "emergency medication" includes a prescription drug delivered by inhalation to alleviate asthmatic symptoms and an epinephrine autoinjectable pen.

Approved March 16, 2005
Filed March 17, 2005

CHAPTER 165

HOUSE BILL NO. 1048

(Representative Herbel)

HIGH SCHOOL REQUIRED UNITS

AN ACT to amend and reenact section 15.1-21-02 of the North Dakota Century Code, relating to required high school units.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-21-02 of the North Dakota Century Code is amended and reenacted as follows:

15.1-21-02. (Effective through June 30, 2005) High schools - Required units. In order to be approved by the superintendent of public instruction, each public and nonpublic high school shall make available to each student:

1. Four units of English.
2. Three units of mathematics.
3. Four units of science.
4. Three units of social studies, including one of world history and one of United States history, both of which must emphasize geography.
5. One unit of health and physical education.
6. One unit of music.
7. Any six units selected from business education, economics and the free enterprise system, foreign language, American sign language, and career and technical education courses, including family and consumer sciences, agriculture, business and office technology, marketing, diversified occupations, trade and industrial education, technology education, and health careers. The career and technical education courses may be offered through cooperative arrangements approved by the department of career and technical education.

(Effective after June 30, 2005) 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 ~~during each school year~~;
 - f. One-half unit of physical education ~~during each school year~~;
 - g. Two units of fine arts, at least one of which must be music;
 - h. Two units of the same foreign language; and
 - i. Two units of career and technical education.
2. Each unit which must be made available under subsection 1 must meet or exceed the state content standards.
 3. For purposes of this section, unless the context otherwise requires, "make available" means that:
 - a. Each public high school and nonpublic high school shall allow students to select units over the course of a high school career from a list that includes at least all the units provided in subsection 1;
 - b. If a student selects a unit from the list required by subsection 1, the public high school or the nonpublic high school shall provide the unit to the student; and
 - c. The unit may be provided to the student through any delivery method not contrary to state law and may include classroom or individual instruction and distance learning options, including interactive video, computer instruction, correspondence courses, and postsecondary enrollment under chapter 15.1-25.
 4. The board of a school district may not impose any fees or charges upon a student for the provision of or participation in units as provided in this section, other than the fees permitted by section 15.1-09-36.
 5. If in order to meet the minimum requirements of this section a school district includes academic courses offered by a postsecondary institution under chapter 15.1-25, the school district shall:
 - a. Pay all costs of the student's attendance, except those fees that are 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.
 6. The requirements of this section do not apply to alternative high schools or alternative high school education programs.

CHAPTER 166

HOUSE BILL NO. 1265

(Representatives Sitte, Grande, Kempenich, L. Meier)
(Senators Dever, O'Connell)

HOME EDUCATION OF DEVELOPMENTALLY DISABLED

AN ACT to amend and reenact sections 15.1-20-02, 15.1-23-13, 15.1-23-14, and 15.1-23-15 of the North Dakota Century Code, relating to home education of students with developmental disabilities.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-20-02 of the North Dakota Century Code is amended and reenacted as follows:

15.1-20-02. Compulsory attendance - Exceptions.

1. The provisions of section 15.1-20-01 do not apply if the person having responsibility for the child demonstrates to the satisfaction of the school board that:
 - a. The child is in attendance for the same length of time at an approved nonpublic school;
 - b. The child has completed high school;
 - c. The child is necessary to the support of the child's family;
 - d. A multidisciplinary team that includes the child's school district superintendent, the director of the child's special education unit, the child's classroom teacher, the child's physician, and the child's parent has determined that the child has a disability that renders attendance or participation in a regular or special education program inexpedient or impracticable; or
 - e. The child is receiving home education; ~~provided, however, that this exception is not available if the child has developmental disabilities as defined by subsection 4 of section 25-01.2-01.~~
2. A decision by the board of a school district under subsection 1 is appealable to the district court.

SECTION 2. AMENDMENT. Section 15.1-23-13 of the North Dakota Century Code is amended and reenacted as follows:

15.1-23-13. Home education - Disabilities - Services plan.

1. a. If a multidisciplinary assessment team, using eligibility criteria established by the superintendent of public instruction, determines that the child is disabled, that the child requires specially designed

instruction due to the disability, and that this instruction cannot be provided without special education and related services, the parent may continue to supervise home education, provided that:

- a. ~~The child does not have a developmental disability;~~
 - b. (1) The parent files with the school district superintendent a services plan that was developed privately or through the school district; and
 - e. (2) The services plan demonstrates that the child's special needs are being addressed by persons qualified to provide special education or related services.
- b. If the multidisciplinary team determines that the child has a developmental disability, the parent may continue to supervise home education under the provisions of sections 15.1-23-14 and 15.1-23-15.
2. Annually, the superintendent of the child's school district of residence shall determine reasonable academic progress based on the child's services plan.
 3. If a parent fails to file a services plan as required by this section, the parent is deemed to be in violation of the compulsory school attendance provisions and may no longer supervise the home education of the child.
 4. A child who was once evaluated by a multidisciplinary assessment team need not be reevaluated for a potential learning problem upon scoring below the thirtieth percentile on a subsequent standardized achievement test unless the reevaluation is performed pursuant to the child's services plan.

SECTION 3. AMENDMENT. Section 15.1-23-14 of the North Dakota Century Code is amended and reenacted as follows:

15.1-23-14. ~~Children with autism~~ Child with a developmental disability - Home education. ~~Notwithstanding any other law, a A parent may supervise home education for a developmentally disabled child with autism~~ a developmental disability if:

1. The child has been determined to ~~be autistic~~ have a developmental disability by a licensed psychologist;
2. The child's parent is qualified to supervise home education under this chapter; and
3. The child's parent files with the superintendent of the child's school district of residence:
 - a. A notice that the child will receive home education;
 - b. A copy of the child's diagnosis of ~~autism~~ a developmental disability prepared and attested to by a licensed psychologist; and

- c. A services plan developed and followed by the child's school district of residence and the child's parent; or, after providing written notice to the superintendent of the child's school district of residence, a substitute services plan, developed and followed, according to section 15.1-23-15, by a services plan team selected by and compensated by the child's parent.

SECTION 4. AMENDMENT. Section 15.1-23-15 of the North Dakota Century Code is amended and reenacted as follows:

15.1-23-15. ~~Children~~ Child with autism a developmental disability - Home education - Progress reports.

1. On or before November first, February first, and May first of each school year, a parent supervising home education for ~~an autistic a child with a~~ a child with a developmental disability under section 15.1-23-14 shall file with the superintendent of the child's school district of residence progress reports prepared by the services plan team selected under section 15.1-23-14. If at any time the services plan team agrees that the child is not benefiting from home education, the team shall notify the superintendent of the child's school district of residence and request that the child be evaluated by a multidisciplinary team appointed by the superintendent of the child's school district of residence.
2. The superintendent of the child's school district of residence shall forward copies of all documentation required by this section to the superintendent of public instruction.

Approved March 23, 2005

Filed March 23, 2005

CHAPTER 167

HOUSE BILL NO. 1154

(Education Committee)

(At the request of the Office of Management and Budget)

PER STUDENT PAYMENTS AND TEACHER COMPENSATION

AN ACT to create and enact a new section to chapter 15.1-07 of the North Dakota Century Code, relating to educational association board reimbursement; to amend and reenact sections 15.1-06-04, 15.1-06-06, 15.1-07-28, 15.1-09-01, 15.1-12-26, 15.1-12-27, 15.1-12-29, 15.1-18-07, 15.1-22-01, 15.1-27-04, 15.1-27-05, 15.1-27-06, 15.1-27-07, 15.1-27-11, 15.1-27-15, 15.1-27-35, 15.1-27-37, 15.1-27-39, 15.1-27-40, 15.1-28-03, 15.1-29-03, 15.1-29-04, and 15.1-29-12 of the North Dakota Century Code and section 37 of chapter 667 of the 2003 Session Laws, relating to school calendars, school boards, teacher qualifications, school district dissolutions, the school district equalization factor, weighting factors, supplemental payments, isolated schools, and tuition payments; to repeal sections 15.1-09-42, 15.1-12-11.1, and 15.1-12-11.2 of the North Dakota Century Code, relating to instructional conferences and reorganization bonus payments; to provide for transportation grants; to provide for contingent payments; to provide for teacher compensation; to provide for a report to the legislative council; to provide an appropriation; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-06-04 of the North Dakota Century Code is amended and reenacted as follows:

15.1-06-04. School calendar - Length.

1. During each school year, a school district shall provide for a school calendar of at least one hundred eighty days, apportioned as follows:
 - a. One hundred seventy-three full days of instruction;
 - b. 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;
 - c. ~~Two days for the attendance of teachers at the North Dakota education association instructional conference; and~~
 - d. 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
 - d. 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.
3. 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.
- ~~2.~~ 4. A full day of instruction consists of:

 - a. 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
 - b. 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.
- ~~3.~~ 5. 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.
4. 6. A school that does not qualify under the provisions of subsection 3 must extend its normal schoolday by at least thirty minutes to make up classroom instruction time lost as a result of weather-related closure.
- ~~5.~~ 7. 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.

¹⁰⁶ **SECTION 2. AMENDMENT.** Section 15.1-06-06 of the North Dakota Century Code is amended and reenacted as follows:

15.1-06-06. Approval of public and nonpublic schools. Each public and nonpublic school in this state offering elementary or secondary education to students must be approved by the superintendent of public instruction. Except as otherwise provided by law, the superintendent may not approve a school unless:

1. Each classroom teacher ~~holds a valid teaching certificate issued~~ is licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board;
2. Each classroom teacher is teaching only in those course areas or fields for which the teacher is licensed or for which the teacher has received an exception under section 2 of House Bill No. 1076, as approved by the fifty-ninth legislative assembly;
3. The students are offered all subjects required by law; and
3. ~~4.~~ 4. The school is in compliance with all local and state health, fire, and safety laws.

SECTION 3. AMENDMENT. Section 15.1-07-28 of the North Dakota Century Code is amended and reenacted as follows:

15.1-07-28. Educational association - Joint powers agreement - Approval Review by superintendent of public instruction - Criteria. ~~# Before school districts participating in an educational association governed by a joint powers agreements under chapter 54-40-3 wish to agreement may receive reimbursement for expenses any moneys, as provided in section 15.1-27-40, the school districts must request that the superintendent of public instruction approve their shall review the joint powers agreement. In order for the superintendent of public instruction to approve a joint powers agreement, the superintendent shall determine and annually and verify that:~~

1. a. ~~The participating school districts are contiguous; and~~
- b. ~~(4) The participating in the agreement have:~~
 - a. ~~A combined total land mass of the participating school districts exceeds four at least five thousand eight hundred square miles [4035996 1502193 hectares];~~
 - ~~(2) The~~
 - b. ~~A combined total land mass of the participating school districts exceeds two at least four thousand five hundred square miles [647497 1165494 hectares] and the participating school districts number at least six twelve; or~~

¹⁰⁶ Section 15.1-06-06 was also amended by section 12 of House Bill No. 1015, chapter 15, and section 1 of House Bill No. 1076, chapter 163.

(3) The

- c. A combined total land mass of the participating school districts exceeds two at least four thousand five hundred square miles [1035995 hectares] and the total number of have at least three thousand students in average daily membership in the participating school districts exceeds two thousand five hundred.
2. The joint powers agreement provides that a school district contiguous to any school district already participating in the joint powers agreement may become a participant in the agreement at any time.
3. The joint powers agreement requires that the participating school districts agree to maintain a joint operating fund, agree to share administrative functions, or agree to implement various common requirements; provided that:
- a. If the participating school districts agree to establish a joint operating fund, the joint powers agreement must require that during the first school year following approval, the participating school districts shall establish a joint operating fund equal to at least two percent of the participating districts' total expenditures for the school year ending on the June thirtieth preceding the date of approval; during the second school year following approval, the participating school districts shall establish a joint operating fund equal to at least four percent of the participating districts' total expenditures for the school year ending on the June thirtieth preceding the date of approval; and during the fifth school year following approval, the participating school districts shall establish a joint operating fund equal to at least six percent of the participating districts' total expenditures for the school year ending on the June thirtieth preceding the date of approval;
- b. If the participating school districts agree to share administrative functions, the joint powers agreement must require that during the first school year following approval, all of the participating districts shall share in the administration of at least three services; during the third school year following approval, all of the participating districts shall share in the administration of at least five services; and during the fifth school year following approval, all of the participating districts shall share in the administration of at least seven services; and that the list from which the participating districts must select the services to be shared consists of:
- (1) Federal title program management;
 - (2) Staff development;
 - (3) Special education delivery;
 - (4) Curriculum development or delivery;
 - (5) Career and technical education delivery;
 - (6) Student instructional support;

- (7) Media and technology;
 - (8) Business management;
 - (9) Distance learning;
 - (10) Student counseling;
 - (11) Food and nutrition;
 - (12) Facility safety and health;
 - (13) School accreditation and improvement; and
 - (14) Transportation; and
6. If the participating school districts agree to implement various common requirements, the joint powers agreement must require that during the first school year following approval, all of the participating districts shall implement at least three requirements; during the third school year following approval, all of the participating districts shall implement at least six requirements; and during the fifth school year following approval, all of the participating districts shall implement at least eight requirements; and that the list from which the participating districts must select the requirements to be implemented consists of:
- (1) A common school calendar;
 - (2) A common class schedule;
 - (3) A common intranet communication system;
 - (4) A common class registration process for grades seven through twelve;
 - (5) A common curriculum for each grade level from kindergarten through six;
 - (6) A common student data system;
 - (7) A common school improvement and staff development process;
 - (8) Common services, as set forth in a five-year plan;
 - (9) A school facilities plan; and
 - (10) Joint funding of dual credit and advance placement courses; or
- d. A combined total land mass of at least one thousand five hundred square miles [388498 hectares] and have at least seven thousand five hundred students in average daily membership.

2. The school districts participating in the agreement are contiguous to each other or, if the districts are not contiguous to each other, the superintendent of public instruction shall verify that the participating districts can provide sound educational opportunities to their students in a fiscally responsible manner without injuring other school districts or educational associations governed by joint powers agreements and without negatively impacting the ability of other school districts or educational associations governed by joint powers agreements from providing sound educational opportunities to their students in a fiscally responsible manner. A decision by the superintendent of public instruction under this subsection may be appealed to the state board of public school education. A decision by the state board is final.
3. The joint powers agreement requires that the participating school districts maintain a joint operating fund and share various administrative functions and student services in accordance with subsection 4.
4. a. During the first two school years in which an educational association governed by a joint powers agreement is operational, each of the participating school districts shall share in at least two administrative functions and two student services, selected by the district.

b. During the third and fourth school years in which an educational association governed by a joint powers agreement is operational, each of the participating school districts shall share in at least three administrative functions and three student services, selected by the district.

c. During the fifth school year in which an educational association governed by a joint powers agreement is operational, and each year thereafter, each participating school district shall share at least five administrative functions and five student services, selected by the district.

d. For purposes of this subsection:

 - (1) "Administrative functions" means:

 - (a) Business management;
 - (b) Career and technical education services management;
 - (c) Curriculum mapping or development;
 - (d) Data analysis;
 - (e) Federal program support;
 - (f) Federal title program management;
 - (g) Grant writing;
 - (h) School improvement;

- (i) School safety and environment management;
 - (j) Special education services management;
 - (k) Staff development;
 - (l) Staff retention and recruitment;
 - (m) Staff sharing;
 - (n) Technology support; and
 - (o) Any other functions approved by the superintendent of public instruction.
- (2) Student services means:
- (a) Advanced placement classes;
 - (b) Alternative high schools or alternative high school programs;
 - (c) Career and technical education classes;
 - (d) Counseling services;
 - (e) Common elementary curricula;
 - (f) Distance learning classes;
 - (g) Dual credit classes;
 - (h) Foreign language classes;
 - (i) Library and media services;
 - (j) Summer programs;
 - (k) Supplemental instruction programs; and
 - (l) Any other services approved by the superintendent of public instruction.
- e. For purposes of this subsection, if an educational association governed by a joint powers agreement became operational before July 1, 2005, the 2005-06 school year must be considered the association's first year of operation.
5. The joint powers agreement provides:
- a. Criteria for the future participation of school districts that were not parties to the original joint powers agreement;
 - b. An application process by which school districts that were not parties to the original joint powers agreement can become participating districts; and

- c. A process by which school districts that were not parties to the original joint powers agreement and whose application to participate in the agreement was denied can appeal the decision to the superintendent of public instruction.
4. 6. The joint powers agreement provides for the employment and compensation of a ~~chief administrator and other~~ any staff necessary to carry out the provisions of the agreement and the requirements of this ~~section and section 15.1-27-37~~ Act.
7. The joint powers agreement provides for a governing board that consists only of individuals who serve on the boards of the participating school districts or designees of the respective school board members, provided however that a joint powers agreement may allow for the inclusion of ex officio nonvoting members on the educational association's board.
8. The joint powers agreement provides that the board of the educational association shall meet at least quarterly.
9. The joint powers agreement does not permit the educational association to compensate members of the educational association board for attending meetings of the board and that it does not permit the educational association to reimburse members of the board for any expenses incurred in attending meetings of the educational association board.

SECTION 4. A new section to chapter 15.1-07 of the North Dakota Century Code is created and enacted as follows:

Compensation - Reimbursement - Extraordinary service. The board of an educational association established under section 15.1-07-28 may provide compensation and reimbursement to any board member who, at the direction of the board, performs extraordinary service on behalf of the board. For purposes of this section, "extraordinary service" means duties beyond those reasonably expected of members of the board and includes travel to and attendance at national meetings or conventions.

SECTION 5. AMENDMENT. Section 15.1-09-01 of the North Dakota Century Code is amended and reenacted as follows:

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

1. The board of a school district ~~is~~ must be composed of five, seven, or nine members; ~~unless:~~
- a. ~~The electors of the district increase the size of the board under this section;~~
 - b. ~~The size of the board was increased under a prior law; or~~
 - c. ~~The board, on July 1, 1971, was composed of more or fewer than five members, in which case the number of members must remain unchanged unless increased under this section.~~

2. The size of ~~any a~~ school district board may be increased to ~~either five, 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 five, the terms of two members extend until the first annual election, the terms of two members extend until the second annual election, and the term of the remaining member extends until the third annual election.~~
 - b. ~~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.~~
 - e. 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.
 - d. c. The length of the terms specified in this ~~section~~ subsection must be determined by lot.
 - e. d. All board members shall serve for the terms specified in this ~~section~~ subsection and until their successors are elected and qualified.
 - f. 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.
 - g. 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. If on July 1, 2005, the board of any school district contains only three members, the board must be increased to five members and the additional members must be elected at the next annual school district election, in the same manner as other board members. The initial term of one additional member must be one year and the initial term of the other additional member must be two years. The length of the terms specified in this subsection must be determined by lot. Thereafter, the size of the board may be increased in accordance with subsections 2 and 3.

5. 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.~~ 6. 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.~~ 7. 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.~~ 8. 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.
- ~~8.~~ 9. Notwithstanding the provisions of this section, the board of education of the city of Fargo consists of nine members.

SECTION 6. AMENDMENT. Section 15.1-12-26 of the North Dakota Century Code is amended and reenacted as follows:

15.1-12-26. Dissolution of school district - Grounds.

1. A county committee shall initiate proceedings to dissolve a school district and attach the property to other operating high school districts when it is notified in writing by the county superintendent of schools whose jurisdiction includes the administrative headquarters of the district that:
 - a. The district is financially unable to effectively and efficiently educate its students;
 - b. The district has not operated a school as required by section 15.1-12-24; or
 - c. A school board has determined that dissolution is in the best interest of its students.
2. Except as provided in subsection 3, a county committee shall initiate proceedings under section 15.1-12-27 to attach real property to an operating high school district when it is notified in writing by the county superintendent that:
 - a. Real property has been severed from its school district by the expansion of a city and the severed portion is not contiguous with its district; or
 - b. There exists real property that does not belong to a school district.

3. If a school district reorganization plan which does not include all real property in a district is approved by the electors, the county committee shall, within forty-five days after the election, hold a hearing under section ~~45.1-12-29~~ 15.1-12-27 to attach the remaining property to one or more operating high school districts.
4. Receipt of notice by a county committee under this section:
 - a. Renders an annexation petition involving any real property in the district void, unless the annexation has already been approved by the state board; and
 - b. Prohibits the acceptance of a new annexation petition involving any real property in the district until all dissolution proceedings have been completed.
5. One or more annexation petitions may not be used to annex all of the real property in a school district to surrounding school districts.

¹⁰⁷ **SECTION 7. AMENDMENT.** Section 15.1-12-27 of the North Dakota Century Code is amended and reenacted as follows:

15.1-12-27. Dissolution of school district - Notice - Hearing - Order of attachment.

1. The county superintendent shall schedule and give notice of a public hearing regarding the dissolution of the district and the subsequent attachment of the property to other high school districts. The county superintendent shall publish the notice in the official newspaper of each county that encompasses property in the dissolving district and in the official newspaper of each county that encompasses property in a high school district adjacent to the dissolving district, at least fourteen days before the date of the hearing. The county superintendent shall provide notice of the public hearing to the business manager of each high school district adjacent to the dissolving district.
2. At the hearing, the board of the dissolving district may propose a particular manner of dissolution.
3. The county committee shall consider testimony and documentary evidence regarding:
 - a. The value and amount of property held by the dissolving school district;
 - b. The amount of all outstanding bonded and other indebtedness;
 - c. The distribution of property and assets among the high school districts to which the dissolved district is attached;

¹⁰⁷ Section 15.1-12-27 was also amended by section 4 of House Bill No. 1160, chapter 159.

- d. The taxable valuation of the dissolving district and adjacent high school districts and the taxable valuation of adjacent high school districts under the proposed manner of dissolution;
 - e. The size, geographical features, and boundaries of the dissolving district and of adjacent high school districts;
 - f. The number of students in the dissolving district and in adjacent high school districts;
 - g. The general population of the dissolving district and adjacent high school districts;
 - h. Each school in the dissolving district and in adjacent high school districts, including its name, location, condition, accessibility, and the grade levels it offers;
 - i. The location and condition of roads, highways, and natural barriers in the dissolving district and in adjacent high school districts;
 - j. Conditions affecting the welfare of students in the dissolving district and in adjacent high school districts;
 - k. The boundaries of other governmental entities;
 - l. The educational needs of communities in the dissolving district and in adjacent high school districts;
 - m. Potential savings in school district transportation and administrative services;
 - n. The anticipated future use of the dissolving districts' buildings, sites, and playfields;
 - o. The potential for a reduction in per student valuation disparities between the high school districts to which the dissolved district is attached;
 - p. The potential to equalize or increase the educational opportunities for students from the dissolving district and for students in adjacent high school districts; and
 - q. All other relevant factors.
4. After the hearing, the county committee shall make findings of fact. Subject to final approval by the state board, the county committee may order the district dissolved and its real property attached to one or more contiguous, operating high school districts.
 5. Any property ordered attached under this section must have at least one minor residing within its boundaries.
 6. The county superintendent shall forward all minutes, records, documentary evidence, and other information regarding the dissolution proceeding together with a copy of the county committee's order to the state board for final approval of the dissolution. The state board shall

publish notice of its meeting at which it will consider the dissolution, in the official newspapers of the counties required for publication under subsection 1, at least fourteen days before the meeting.

7. The order of dissolution becomes effective July first following approval by the state board, unless the county committee provides for a different effective date.
8. If the boundaries of the dissolving school district cross county lines, the proceeding to dissolve the district must be conducted jointly by the county committees representing counties containing twenty-five percent or more of the dissolving district's taxable valuation. If, after the hearing, a majority of the county committees are unable to agree upon an order of dissolution and attachment, the county superintendent of the county in which the administrative headquarters of the dissolving school district is located shall notify the state board. The state board shall conduct a public hearing, as required in this section, and order the dissolution of the district and the attachment of its real property to adjacent high school districts in the manner it deems appropriate. The state board shall publish notice of the public hearing in the official newspapers of the counties required for publication under subsection 1, at least fourteen days before the date of the hearing.
9. If any portion of the order providing for the attachment of real property is suspended or voided, the order of dissolution is likewise suspended or voided.

¹⁰⁸ **SECTION 8. AMENDMENT.** Section 15.1-12-29 of the North Dakota Century Code is amended and reenacted as follows:

15.1-12-29. Dissolution of school district - Unobligated cash balance - Tax credits or refunds.

1. Any After ten thousand dollars is set aside, as required by section 15.1-12-28, and after the required amount is deposited in the reimbursement account for job service North Dakota, as required by section 15.1-12-28.1, any remaining unobligated cash balance in excess of ten thousand dollars, up to an amount equaling a dissolved school district's general fund expenditure for the last school year before the district's dissolution is a credit for real property owners within the boundaries of the dissolved school district, against taxes levied by the district ~~in~~ to which their property is now situated. ~~The county auditor shall base the credit on the five-year average of the total mills levied for education by the dissolved district attached.~~ If property from the dissolved district is attached to more than one school district, the percentage of the total credit that to which each eligible real property owners receive must be owner is entitled must equal the same percentage of the unobligated cash balance as the that the taxable valuation of the individual's real property bears to the total taxable

¹⁰⁸ Section 15.1-12-29 was also amended by section 7 of House Bill No. 1160, chapter 159.

valuation of the dissolved district's property at the time of the attachment order.

2. Upon approval of the board of county commissioners, any school district required to provide a tax credit under subsection 1 may provide a cash refund in lieu of the tax credit. At the request of the county auditor, the school district holding the unobligated cash balance available under subsection 1 shall pay to the county treasurer the amount to be paid to those who own real property within the dissolved district. The treasurer shall issue the refund to the owner of the property as shown on the county's assessment list at the time of payment. If there is a lien for unpaid taxes against the property, the treasurer shall first apply the property owner's tax credit toward any outstanding balance. Any amount remaining may then be paid to the property owner. The cash refunds must be calculated proportionately to the total taxable value of the dissolved district during the last year taxes were levied.
3. After the requirements of subsection 1 have been met, the county auditor shall distribute any remaining unobligated cash balance among the school districts to which the real property of the dissolved district was attached. The percentage of the remaining unobligated cash balance to which each school district is entitled equals that percentage of the dissolved district's total taxable valuation which was attached to the receiving school district.

¹⁰⁹ **SECTION 9. AMENDMENT.** Section 15.1-18-07 of the North Dakota Century Code is amended and reenacted as follows:

15.1-18-07. (Effective after June 30, 2006) Elementary school teacher qualifications.

1. In order to teach any grade ~~from one through six~~ in an elementary school ~~that offers grades one through six, or in order to teach any grade in an elementary school that offers grades one through eight,~~ an individual must be licensed:
 - a. Licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board; and:
 - a. b. (1) Have a major in elementary education; or
 - b. (2) Have a major equivalency in elementary education.
2. Notwithstanding the provisions of subsection 1, an individual may teach any grade from one through three in an elementary school provided the individual is ~~licensed~~:

¹⁰⁹ Section 15.1-18-07 was also amended by section 5 of House Bill No. 1076, chapter 163.

- a. Licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board; and:
- a- b. (1) Has a major in early childhood education; or
- b- (2) Has a major equivalency in early childhood education.
3. In order to teach any grade from one through eight in a self-contained classroom, an individual must be licensed to teach by the education standards and practices board and:
- a- Have a major in elementary education; or
- b- Have a major equivalency in elementary education.

SECTION 10. AMENDMENT. Section 15.1-22-01 of the North Dakota Century Code is amended and reenacted as follows:

15.1-22-01. Kindergarten - Establishment by board - ~~Petition for establishment~~ Request by parent - Levy.

1. Upon its own motion, the board of a school district may establish a free public kindergarten ~~for the instruction during a school year of resident children below school age.~~
2. If the board receives a ~~petition signed by qualified electors residing in the district equal in number to at least twenty percent of those who voted in the most recent annual school district election, the board must submit the question of establishing a kindergarten to the electorate at the next annual or special school district election. The margins of electoral approval provided in section 57-15-14 must be applied~~ written request to provide kindergarten from the parent of a student who will be enrolled in the kindergarten, the board shall either provide at least a half-day kindergarten program for the student or pay the tuition required for the student to attend at least a half-day kindergarten program in another school district.
3. The board of a school district that establishes a kindergarten under this section may levy a tax pursuant to subdivision p of subsection 1 of section 57-15-14.2.

SECTION 11. AMENDMENT. Section 15.1-27-04 of the North Dakota Century Code is amended and reenacted as follows:

15.1-27-04. Per student payment. The per student payment to which each school district is entitled for the first year of the biennium is two thousand ~~five~~ seven hundred ~~nine~~ sixty-five dollars. The per student payment to which each school district is entitled for the second year of the biennium is two thousand ~~six~~ eight hundred ~~twenty-three~~ seventy-nine dollars. The per student amount is the basis for calculating state payments to school districts, as provided in sections 15.1-27-06 and 15.1-27-07.

SECTION 12. AMENDMENT. Section 15.1-27-05 of the North Dakota Century Code is amended and reenacted as follows:

15.1-27-05. (Effective through June 30, 2008) School district equalization factor.

1. To determine the amount of payments due a school district, the superintendent of public instruction shall add the tuition apportionment payments, per student payments, special education aid, transportation aid, and teacher compensation payments for which a school district is eligible and from that total subtract the following:
 - a. The product of ~~thirty-six~~ thirty-eight mills times the taxable valuation of property in the district;
 - b. The amount by which the unobligated general fund balance of the district on the preceding June thirtieth is in excess of fifty percent of its actual expenditures, plus twenty thousand dollars; and
 - c. If the mills levied by the district for general fund purposes, plus the mills levied for high school transportation and high school tuition purposes are fewer than one hundred forty, the number of mills by which the district's levies are below one hundred forty multiplied by the taxable valuation of property in the district.
2. Beginning July 1, 2006, and each year thereafter, the number of mills used by the superintendent of public instruction in determining the product required by subdivision a of subsection 1 must be increased by ~~two~~ three over the number of mills used in determining the product required by that subdivision the previous year.

(Effective after June 30, 2008) School district equalization factor.

1. To determine the amount of payments due a school district, the superintendent of public instruction shall add the tuition apportionment payments, per student payments, special education aid, transportation aid, and teacher compensation payments for which a school district is eligible and from that total subtract the following:
 - a. The product of the number of mills prescribed in subsection 2 times the taxable valuation of property in the district;
 - b. The amount by which the unobligated general fund balance of the district on the preceding June thirtieth is in excess of forty-five percent of its actual expenditures, plus twenty thousand dollars; and
 - c. If the mills levied by the district for general fund purposes, plus the mills levied for high school transportation and high school tuition purposes are fewer than one hundred forty, the number of mills by which the district's levies are below one hundred forty multiplied by the taxable valuation of property in the district.
2. The number of mills used by the superintendent of public instruction in determining the product required by subdivision a of subsection 1 must be increased by ~~two~~ three over the number of mills used in determining the product required by that subdivision the previous year.

SECTION 13. AMENDMENT. Section 15.1-27-06 of the North Dakota Century Code is amended and reenacted as follows:

15.1-27-06. Per student payments - Weighting factors - High school students. The superintendent of public instruction shall make payments each year, as provided for in this section, to each school district operating a high school and to each school district contracting to educate high school students in a federal school, subject to adjustment as provided in section 15.1-27-21.

1. Each district having under ~~seventy-five~~ one hundred twenty students in average daily membership in grades nine through twelve is entitled to receive the amount of money that results from multiplying the factor ~~1.625~~ adjusted by eighty-five percent of the difference between 1.625 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, by the number of students in grades nine through twelve who are registered in that district, times the per student payment provided for in section 15.1-27-04. ~~Beginning July 1, 2004, the factor is that which represents the five-year average cost of education per student in this category, as determined by the superintendent of public instruction.~~
2. Each district having at least ~~seventy-five~~ one hundred twenty but fewer than ~~one~~ three hundred ~~fifty~~ students in average daily membership in grades nine through twelve is entitled to receive the amount of money that results from multiplying the factor ~~1.335~~ adjusted by eighty-five percent of the difference between 1.335 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, by the number of students in grades nine through twelve who are registered in that district, times the per student payment provided for in section 15.1-27-04. ~~Beginning July 1, 2004, the factor is that which represents the five-year average cost of education per student in this category, as determined by the superintendent of public instruction.~~
3. Each district having at least ~~one~~ three hundred ~~fifty~~ but fewer than ~~five~~ hundred ~~fifty~~ students in average daily membership in grades nine through twelve is entitled to receive the amount of money that results from multiplying the factor ~~1.24~~ adjusted by eighty-five percent of the difference between 1.24 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, by the number of students in grades nine through twelve who are registered in that district, times the per student payment provided for in section 15.1-27-04. ~~Beginning July 1, 2004, the factor is that which represents the five-year average cost of education per student in this category, as determined by the superintendent of public instruction.~~
4. Each district having at least ~~five~~ hundred ~~fifty~~ students in average daily membership in grades nine through twelve is entitled to receive the amount of money that results from multiplying the factor ~~1.14~~ adjusted by eighty-five percent of the difference between 1.14 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, by the number of students in grades nine through twelve who are registered in that district, times the per student payment provided for in

~~section 15.1-27-04. Beginning July 1, 2004, the factor is that which represents the five-year average cost of education per student in this category, as determined by the superintendent of public instruction.~~

- ~~5. 4.~~ Each district having an approved alternative high school education program is entitled to receive the amount of money that results from multiplying the factor in:
- ~~a.~~ Subsection 1 by the number of students registered in the alternative education program, times the per student payment provided for in section 15.1-27-04, if fewer than ~~seventy-five~~ one hundred twenty students in average daily membership are enrolled in the alternative education program.
 - ~~b.~~ Subsection 2 by the number of students registered in the alternative education program, times the per student payment provided for in section 15.1-27-04, if at least ~~seventy-five~~ one hundred twenty but fewer than ~~one~~ three hundred fifty students in average daily membership are enrolled in the alternative education program.
 - ~~c.~~ Subsection 3 by the number of students registered in the alternative education program, times the per student payment provided for in section 15.1-27-04, if at least ~~one~~ three hundred fifty but fewer than ~~five hundred fifty~~ students in average daily membership are enrolled in the alternative education program.
 - ~~d.~~ ~~Subsection 4 by the number of students registered in the alternative education program, times the per student payment provided for in section 15.1-27-04, if at least five hundred fifty students in average daily membership are enrolled in the alternative education program.~~
- ~~6. 5.~~ In order to be eligible for enumeration under this section, a student:
- ~~a.~~ Must have completed the work of the eighth grade;
 - ~~b.~~ Must not have completed the work of the twelfth grade; and
 - ~~c.~~ Must be a resident of this state or a nonresident attending a school in this state under the auspices of a foreign student exchange program.
6. In calculating payments under this section and subsections 1 through 4 of section 15.1-27-07, the superintendent of public instruction shall use 1.0 as the factor that represents the lowest five-year average cost of education among all elementary and high school weighting categories other than kindergarten and shall use proportionately increased factors to represent the five-year average cost of education in all remaining weighting categories except kindergarten.

SECTION 14. AMENDMENT. Section 15.1-27-07 of the North Dakota Century Code is amended and reenacted as follows:

15.1-27-07. Per student payments - Weighting factors - Elementary school students. The superintendent of public instruction shall make payments

each year, as provided for in this section, to each school district operating an elementary school and to each school district contracting to educate elementary students in a federal school, subject to adjustment as provided in section 15.1-27-21.

4. a. Each district having only a one-room rural school is entitled to receive the amount of money that results from multiplying the factor 1.28 adjusted by eighty-five percent of the difference between 1.28 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, by the number of students in average daily membership in grades one through eight in that school, times the per student payment provided for in section 15.1-27-04. Beginning July 1, 2004, the factor is that which represents the five-year average cost of education per student in this category, as determined by the superintendent of public instruction. The payment level provided for in this subdivision is applicable only to the first sixteen students.
 - b. If the one-room rural school has more than sixteen students in average daily membership in grades one through eight, the district in which the school is located is entitled to receive ninety percent of the per student payment provided for in section 15.1-27-04 for each additional student. The district is not entitled to any payment for more than twenty students in average daily membership.
 - c. If a one-room rural school is located in a district having another elementary school, the weighting factor for the students in grades one through six must be based on the average daily membership in the district in grades one through six, as provided in this section.
 - d. If a one-room rural school is located in a school district with another school that has students in grade seven or eight, the weighting factor for the students in grade seven or eight must be the same as that provided for in subsection 5.
2. 1. Except as provided in subsection 4, each Each school district having fewer than one hundred students in average daily membership in grades one through six is entitled to receive the amount of money that results from multiplying the factor 1.09 adjusted by eighty-five percent of the difference between 1.09 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, by the number of students in average daily membership in grades one through six in the district, times the per student payment provided for in section 15.1-27-04. Beginning July 1, 2004, the factor is that which represents the five-year average cost of education per student in this category, as determined by the superintendent of public instruction. The payment provided for in this subsection is applicable only to the first twenty-five students in average daily membership per classroom or per teacher.
 3. 2. Each school district having at least one hundred students but fewer than one thousand students in average daily membership in grades one through six is entitled to receive the amount of money that results from multiplying the factor .905 adjusted by eighty-five percent of the difference between .905 and the factor representing the five-year average cost of education per student for this category, as determined

by the superintendent of public instruction, by the number of students in average daily membership in grades one through six in the district, times the per student payment provided for in section 15.1-27-04. Beginning July 1, 2004, the factor is that which represents the five-year average cost of education per student in this category, as determined by the superintendent of public instruction. The payment provided for in this subsection is applicable only to the first thirty students in average daily membership per classroom or per teacher.

4. Each school district having at least one thousand students in average daily membership in grades one through six is entitled to receive the amount of money that results from multiplying the factor .95 adjusted by eighty-five percent of the difference between .95 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, by the number of students in average daily membership in grades one through six in the district, times the per student payment provided for in section 15.1-27-04. Beginning July 1, 2004, the factor is that which represents the five-year average cost of the education per student in this category, as determined by the superintendent of public instruction. The payment provided for in this subsection is applicable only to the first thirty students in average daily membership per classroom or per teacher.
5. 3. Each school district having students in grades seven and eight is entitled to receive the amount of money that results from multiplying the factor 4.04 adjusted by eighty-five percent of the difference between 4.04 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, by the number of students in average daily membership in grades seven and eight in the district, times the per student payment provided for in section 15.1-27-04. Beginning July 1, 2004, the factor is that which represents the five-year average cost of education per student in this category, as determined by the superintendent of public instruction. The payment provided for in this subsection is applicable only to the first thirty students in average daily membership per classroom or per teacher. The payments provided for in this subsection are not available for students who attend a one-room rural school if that school is the only one in the district that offers educational services to students in grades seven and eight.
6. 4. Each school district having a special education program approved by the director of special education is entitled to receive, for each student who is enrolled in the program and who is at least three years of age but less than the compulsory age for school attendance, the amount of money that results from multiplying the factor 4.04 adjusted by eighty-five percent of the difference between 4.04 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, by the number of special education students in average daily membership in the program who are at least three years of age but less than the compulsory age for school attendance, times the per student payment provided for in section 15.1-27-04. Beginning July 1, 2004, the factor is that which represents the five-year average cost of education per student in this category, as determined by the superintendent of public instruction.

- ~~7.~~ 5. a. Each school district operating a kindergarten as provided for in section 15.1-22-02 is entitled to receive the amount of money that results from multiplying the factor ~~.50 adjusted by eighty-five percent of the difference between .50 and the factor~~ representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, by the number of kindergarten students in average daily membership in the district, times the per student payment provided for in section 15.1-27-04. ~~Beginning July 1, 2004, the factor is that which represents the five-year average cost of education per student in this category, as determined by the superintendent of public instruction.~~ The payment provided for in this subsection is applicable only to the first twenty-five students in average daily membership per classroom or per teacher.
- b. In order to receive the full per student payment available under this section, a district must operate a kindergarten program that provides the equivalent of ninety full days of classroom instruction during a twelve-month period. A district is entitled to a prorated payment under this section if it operates a kindergarten program of shorter duration.
- ~~8.~~ 6. Each school district that educates students who are also enrolled in nonpublic schools is entitled to receive proportionate payments under this section.
- ~~9.~~ 7. Each school district is entitled to receive as much in total payments for elementary students as it would have received if it had the highest number of students in the next lower category.
- ~~10.~~ 8. A school district is not entitled to any payments provided for by this chapter unless each teacher employed by the district:
- a. Holds a teaching license issued by the education standards and practices board; or
- b. Has been approved to teach by the education standards and practices board.
9. In calculating payments under subsections 1 through 4 and under section 15.1-27-06, the superintendent of public instruction shall use 1.0 as the factor that represents the lowest five-year average cost of education among the elementary and high school weighting categories other than kindergarten and shall use proportionately increased factors to represent the five-year average cost of education in all remaining weighting categories except kindergarten.

¹¹⁰ **SECTION 15. AMENDMENT.** Section 15.1-27-11 of the North Dakota Century Code is amended and reenacted as follows:

¹¹⁰ Section 15.1-27-11 was also amended by section 1 of House Bill No. 1032, chapter 169.

15.1-27-11. High school districts - Supplemental payments.

1. The superintendent of public instruction shall calculate the average valuation of property per student by dividing the number of students in average daily membership in grades one through twelve in a high school district into the sum of:
 - a. The district's latest available net assessed and equalized taxable valuation of property; plus
 - b. All tuition payments and county ~~and unrestricted federal~~ revenue received by the district, divided by the total of the district's general fund levy, high school transportation levy, and high school tuition levy.
2. ~~If the~~ The superintendent of public instruction shall verify that:
 - a. The quotient arrived at under subsection 1 is less than the latest available statewide average taxable valuation per student and if the;
 - b. The district's educational expenditure per student is below the most recent available statewide average cost of education per student;
 - c. The district has a general fund levy of at least one hundred eighty mills; and
 - d. The district's unobligated general fund balance on the preceding June thirtieth is not in excess of thirty-five percent of its actual expenditures, plus twenty thousand dollars.
3. If the superintendent of public instruction determines that the district meets all the requirements of subsection 2, the superintendent of public instruction shall:
 - a. Determine the difference between the latest available statewide average taxable valuation per student and the average taxable valuation per student in the high school district;
 - b. Multiply the result determined under subdivision a by the number of students in average daily membership in grades one through twelve in the high school district;
 - c. Multiply the result determined under subdivision b by the number of general fund mills levied by the district in excess of one hundred fifty, provided that any mills levied by the district which are in excess of two hundred ten may not be used in this calculation; and
 - d. Multiply the result determined under subdivision c by a factor calculated by the superintendent of public instruction to result in the expenditure, over the course of the biennium, of the full amount provided for the purpose of this section.
- e- 4. The result of the calculations under this section is the supplemental payment to which a high school district is entitled, in addition to any other amount provided under chapter 15.1-27.

SECTION 16. AMENDMENT. Section 15.1-27-15 of the North Dakota Century Code is amended and reenacted as follows:

15.1-27-15. Per student payments - Isolated schools.

1. If an elementary school has fewer than fifty students and fifteen percent or more of its students would have to travel beyond a fifteen-mile [24.15-kilometer] radius from their residences in order to attend another school, the weighting factor provided under section 15.1-27-07 must be increased by ~~twenty~~ twenty-five percent ~~for the first fifteen students~~. If the school has fewer than fifteen students, the payment received must be for fifteen students.
2. If a high school has fewer than thirty-five students and fifteen percent or more of its students would have to travel beyond a twenty-mile [32.2-kilometer] radius from their residences in order to attend another school, the weighting factor provided under section 15.1-27-06 must be increased by ~~twenty~~ twenty-five percent ~~for the first twenty students~~. If the school has fewer than twenty students, the payment received must be for twenty students.

SECTION 17. AMENDMENT. Section 15.1-27-35 of the North Dakota Century Code is amended and reenacted as follows:

15.1-27-35. Average daily membership - Calculation. Average daily membership is calculated by adding the total number of days that each student in a given classroom, school, or school district is in attendance during a school calendar and the total number of days that each student in a given classroom, school, or school district is absent during a school calendar, and then dividing the sum by one hundred eighty. For purposes of calculating average daily membership, all students are deemed to be in attendance on:

1. The 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;
2. The two days set aside for ~~the attendance of teachers at the North Dakota education association instructional conference~~ professional development activities under section 15.1-06-04; and
3. The two full days, or portions thereof, during which parent-teacher conferences are held or which are deemed by the board of the district to be compensatory time for parent-teacher conferences held outside regular school hours.

SECTION 18. AMENDMENT. Section 15.1-27-37 of the North Dakota Century Code is amended and reenacted as follows:

15.1-27-37. Compensation of teachers - Claim for reimbursement - Rules.

1. On or before October first of each year or within thirty days after the conclusion of the negotiation process provided for in chapter 15.1-16, the board of a school district may file a claim with the superintendent of public instruction for the reimbursement of moneys to be expended by the district during the school year to at least maintain the level of

compensation provided to teachers employed by the district during the ~~2002-03~~ preceding school year.

2. The claim must include:
 - a. The number of full-time equivalent teachers employed by the district as of September fifteenth of the current school year;
 - b. The number of full-time equivalent teachers whose level of compensation will be at least equal to that provided during the ~~2002-03~~ preceding school year; and
 - c. The total amount of any compensation increases provided to full-time equivalent teachers over the level of compensation provided during the ~~2002-03~~ preceding school year.
3.
 - a. ~~For the 2003-04 school year, the~~ The reimbursement provided for in this section may not exceed three thousand dollars multiplied by the number of full-time equivalent teachers employed by the district as of September ~~15, 2003~~.
 - b. ~~For the 2004-05 school year, the reimbursement provided for in this section may not exceed three thousand dollars multiplied by the number of full-time equivalent teachers employed by the district as of September 15, 2004.~~
 - e. ~~For the 2003-04 school year, the~~ fifteenth of the current school year.
 - b. The reimbursement under this section for each individual employed as of September ~~15, 2003~~ fifteenth of the current school year, as a full-time equivalent teacher for the first school year since becoming licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board, may not exceed one thousand dollars.
 - d. ~~For the 2004-05 school year, the reimbursement under this section for each individual employed as of September 15, 2004, as a full-time equivalent teacher for the first school year since becoming licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board, may not exceed one thousand dollars.~~
4. For purposes of this section, the claim of a district may include proportionate expenditures made by the district to compensate individuals employed as teachers by the special education unit or the area career and technology center to which the district belongs.
5. The superintendent of public instruction may adopt rules regarding claims for and the payment of reimbursements under this section.

SECTION 19. AMENDMENT. Section 15.1-27-39 of the North Dakota Century Code is amended and reenacted as follows:

15.1-27-39. Annual salary - Minimum amount.

1. Beginning with the ~~2003-04~~ 2005-06 school year, the board of each school district shall provide to each full-time teacher, under contract for a period of nine months, a minimum salary level for the contract period equal to at least ~~twenty-one~~ twenty-two thousand dollars.
2. Beginning with the ~~2004-05~~ 2006-07 school year, the board of each school district shall provide to each full-time teacher, under contract for a period of nine months, a minimum salary level for the contract period equal to at least ~~twenty-one~~ twenty-two thousand five hundred dollars.

SECTION 20. AMENDMENT. Section 15.1-27-40 of the North Dakota Century Code is amended and reenacted as follows:

15.1-27-40. Approved joint powers agreement - Reimbursement by superintendent of public instruction Report of expenses.

1. ~~The individual employed as a chief administrator for the purpose of carrying out the provisions of a joint powers agreement and any requirements under section 15.1-07-27 shall~~ executive director of an educational association governed by a joint powers agreement which the superintendent of public instruction has verified as meeting the requirements of section 15.1-07-28 shall annually submit to the superintendent of public instruction, at the time and in the manner designated by the superintendent, ~~receipts for expenses incurred during a school year in delivering services and programs under section 15.1-07-27.~~
2. ~~The superintendent of public instruction, upon verifying the receipts, shall reimburse the chief administrator of the joint powers agreement for any expenses incurred in delivering services and programs under the auspices of the joint powers agreement as provided in section 15.1-07-27. The reimbursement may not exceed the lesser of:~~
 - a. ~~The total expenses incurred in delivering services and programs under section 15.1-07-27; or~~
 - b. ~~Fifty thousand dollars.~~
3. ~~The chief administrator~~ a report detailing all expenses incurred by the educational association and shall attribute the expenses on a per student basis by participating school district.
2. ~~The executive director shall deposit any moneys received under subsection 2 in the participating districts' by or on behalf of the association into the educational association's joint operating fund.~~
4. ~~The superintendent of public instruction may not provide any reimbursement to a chief administrator under this section unless the joint powers agreement under which the services and programs are delivered has been approved by the superintendent.~~

SECTION 21. AMENDMENT. Section 15.1-28-03 of the North Dakota Century Code is amended and reenacted as follows:

15.1-28-03. State tuition fund - Apportionment - Payment. On or before the third Monday in each January, February, March, April, August, September,

October, November, and December, the office of management and budget shall certify to the superintendent of public instruction the amount of the state tuition fund. The superintendent shall apportion the fund among the school districts of the state in proportion to the number of school-age children residing in each district, as shown by the latest enumeration provided for by law and pay the amount apportioned to each school district. The superintendent shall make the payments required by this section at the same time as the per student payments required under chapter 15.1-27.

SECTION 22. AMENDMENT. Section 15.1-29-03 of the North Dakota Century Code is amended and reenacted as follows:

15.1-29-03. Education of students in other districts - Payment of tuition and transportation.

1. After taking into account the best interests of all affected parties, the board of a school district may elect to send its students to another school district. In this instance, the board ~~may~~ shall pay for the students' tuition for the students and transportation. The board may arrange, and when petitioned to do so by qualified electors of the district equal in number to at least a majority of those who voted in the most recent annual school district election shall arrange, with other boards to send students to the other districts and to pay for their tuition and transportation.
2. If a district does not provide educational services to an entire grade level, the students in that grade level may attend a public school of their choice outside their district of residence without going through the procedures outlined in section 15.1-29-05. The board of the students' school district of residence shall pay for the students' tuition to the admitting district and transportation. For purposes of determining whether educational services are provided to an entire grade level, districts cooperating with each other in the joint provision of educational services under a plan approved by the superintendent of public instruction are considered to be a single district.

SECTION 23. AMENDMENT. Section 15.1-29-04 of the North Dakota Century Code is amended and reenacted as follows:

15.1-29-04. Payment of tuition and transportation by sending districts - Interest on late payments. ~~If a school board approves the payment of the board of a school district agrees to pay tuition for a student attending school in another district or if a district under this chapter, if it is required to make pay tuition payments under the provisions of this chapter, or if it is required to pay tuition and transportation under this chapter, the board of the sending district shall pay at least fifty percent of the annual tuition charge to the admitting district on or before December thirty-first and any remaining amount on or before May thirty-first. If payment is not received by the admitting district within thirty days after the date on which payment is due, simple interest at the rate of six percent per annum accrues to any amount due.~~

SECTION 24. AMENDMENT. Section 15.1-29-12 of the North Dakota Century Code is amended and reenacted as follows:

15.1-29-12. Tuition payments - Determination.

1. Except as provided in section 15.1-29-13, a school district sending a student to another district for purposes of education shall pay the full cost of education incurred by the admitting district.
2.
 - a. The admitting district shall determine the cost of education per student for its kindergarten, elementary, and high school students on the basis of its average daily membership and those expenditures permitted in determining the cost of education per student in section 15.1-27-03.
 - b. To the cost of education per student, the admitting district shall add the latest available statewide average per student cost for extracurricular activities and the state average capital outlay per student. The state average capital outlay per student is determined by dividing the total of all school districts' annual expenditures for sinking and interest funds, tax receipts to the building funds, and general fund expenditures for capital outlay by the average daily membership of the state.
 - c. The admitting district shall subtract the following from the amount arrived at under subdivision b:
 - (1) The weighted per student payment received by the admitting district, less the average amount per North Dakota resident student enrolled in the school district realized from the deductions applied under section 15.1-27-06; and
 - (2) Any credit for taxes paid to the admitting district by the student's parent.
 - d. The amount remaining is the full cost of education incurred by the admitting district and the tuition amount payable for the individual student.
3. ~~If the student's school district of residence and the student's parent are both paying tuition, the credit allowed under subdivision e of subsection 2 for taxes paid to the admitting district by the student's parent must be proportionately credited to the student's district of residence and the student's parent.~~
4. This chapter does not affect the right of a school board to charge and collect tuition from students who are not residents of this state, in accordance with section 15.1-29-02.

SECTION 25. TRANSPORTATION GRANTS - DISTRIBUTION.

1. During each year of the 2005-07 biennium, the superintendent of public instruction shall distribute from the grants - state school aid line item in House Bill No. 1013, as approved by the fifty-ninth legislative assembly, fifty percent of \$33,500,000 as state transportation aid payments.
2.
 - a. During the first year of the 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 for in-city mileage at the rate of fifty cents for

schoolbuses having a capacity of ten or more students and reimbursement for vehicles having a capacity of nine or fewer students and transporting students who live outside the incorporated limits of a city at the rate of forty cents per mile. The superintendent of public instruction shall use the latest available student enrollment count in each school district.

- b. During the second year of the biennium, the superintendent of public instruction shall distribute to each school district the same amount that the district received under this section for transportation services provided during the first year of the biennium.
3. If insufficient moneys exist to fully meet the requirements of this section, the superintendent of public instruction shall prorate the payments according to the percentage of the total amount to which each school district is entitled.
4. Nothing in this section permits reimbursement for any costs incurred in providing transportation for student attendance at extracurricular activities or events.

SECTION 26. AMENDMENT. Section 37 of chapter 667 of the 2003 Session Laws is amended and reenacted as follows:

SECTION 37. CONTINGENT PAYMENTS - DISTRIBUTION. If any moneys appropriated for per student payments and transportation payments in the grants - state school aid line item in Senate Bill No. 2013 remain after payment of all statutory obligations for per student and transportation payments during the biennium beginning July 1, 2003, and ending June 30, 2005, the superintendent of public instruction shall distribute the remaining moneys as follows:

1. The superintendent of public instruction shall use the first \$119,190, or so much of that amount as may be necessary, for the purpose of reimbursing eligible school districts that received reduced amounts of state aid. For the purposes of this subsection, an eligible school district is one that received a reduction in state aid during the second year of the 2003-05 biennium because the district's general fund levy fell below one hundred forty mills as the result of a reorganization or the dissolution of a contiguous district. The following affected districts listed are entitled to receive reimbursements:

Velva 1	\$24,355
TGU 60	93,514
Lewis and Clark	1,321

2. The superintendent of public instruction shall return the next \$759,000 to the state general fund.
3. The superintendent of public instruction shall use the ~~first~~ next \$250,000, or so much of that amount as ~~is~~ may be necessary, for the purpose of providing reimbursements to the chief administrators of joint powers agreements pursuant to section 19 of this Act.

- ~~2-~~ 4. The superintendent of public instruction shall use the next \$1,000,000, or so much of that amount as ~~is~~ may be necessary, for the purpose of providing reorganization bonuses, pursuant to section 15.1-12-11.1, to school districts having reorganizations effective after July 1, 2003, and before July 1, 2005. If insufficient moneys exist to fully meet the requirements of this subsection, the superintendent of public instruction shall prorate the payments according to that percentage of the amount available to which a school district is entitled.
- ~~3-~~ 5. The superintendent of public instruction shall use the remainder of the moneys to provide additional per student payments on a prorated basis, according to the average daily membership of each school district during the 2004-05 school year.

SECTION 27. CONTINGENCY - RETURN OF MONEYS TO THE GENERAL FUND. If any moneys appropriated for per student payments and transportation payments in the grants - state school aid line item in House Bill No. 1013, as approved by the fifty-ninth legislative assembly, remain after payment of all statutory obligations for per student and transportation payments during the biennium beginning July 1, 2005, and ending June 30, 2007, and if section 26 of this Act does not become effective before July 1, 2005, the superintendent of public instruction shall return the first \$759,000 to the state general fund.

SECTION 28. CONTINGENCY. If any moneys appropriated for per student payments and transportation payments in the grants - state school aid line item in House Bill No. 1013, as approved by the fifty-ninth legislative assembly, remain after payment of all statutory obligations for per student and transportation payments during the biennium beginning July 1, 2005, and ending June 30, 2007, and after the superintendent of public instruction has fulfilled any directives contained in section 27 of this Act, the superintendent shall distribute the remaining moneys as follows:

1. The superintendent of public instruction shall use the first \$450,000, or so much of that amount as may be necessary, to provide additional payments to school districts serving English language learners in accordance with section 15.1-27-12.
2. The superintendent of public instruction shall use the next \$1,000,000, or so much of that amount as may be necessary, for the purpose of providing additional per student payments to school districts participating in eligible educational associations in accordance with section 32 of this Act.
3. The superintendent of public instruction shall 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 29. CONTINGENCY PAYMENTS - TEACHER COMPENSATION - ADDITIONAL PER STUDENT PAYMENTS. If any moneys appropriated by the legislative assembly to the grants - teacher compensation line item in House Bill No. 1013, as approved by the fifty-ninth legislative assembly, remain after completion of all statutory obligations, the superintendent of public instruction shall use the remaining moneys to provide additional per student payments on a prorated

basis, according to the latest available average daily membership of each school district.

SECTION 30. TEACHER COMPENSATION - USE OF NEW MONEYS.

1. During the 2005-07 biennium, the board of each school district shall use an amount equal to at least seventy percent of all new moneys received for per student payments under section 15.1-27-04 and tuition apportionment payments under section 15.1-28-03 for the purpose of increasing the compensation paid to teachers and for the purpose of providing compensation to teachers who begin employment with the district on or after July 1, 2005.
2. For purposes of this section, "new moneys" means any increase in the amount received by a district for per student payments under section 15.1-27-04 and tuition apportionment payments under section 15.1-28-03 between the 2003-05 biennium and the 2005-07 biennium.
3. For purposes of this section, school districts providing educational services under a cooperative agreement approved by the superintendent of public instruction are treated as a single district.
4.
 - a. The provisions of this section do not apply to a school district if the board of the school 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 its members that complying with the provisions of subsection 1 would place the school district in the position of having insufficient fiscal resources to meet its other obligations.
 - b. Within ten days of the vote required by subdivision a, the 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 an interim committee designated by the legislative council.

SECTION 31. REPORT TO LEGISLATIVE COUNCIL - EDUCATIONAL ASSOCIATIONS GOVERNED BY JOINT POWERS AGREEMENTS. At the conclusion of each school year during the 2005-07 biennium, the superintendent of public instruction shall compile a report covering the operations of each educational association governed by a joint powers agreement and verified by the superintendent of public instruction as meeting the requirements of section 15.1-07-28. The report must include the administrative functions and student services in which members of each educational association participated and the direct and indirect benefits of such participation. The report must specifically address whether school district participation resulted in expanded course offerings, improved state and national test results, administrative consolidations, instructional sharing, increased or improved professional development opportunities, and cost-savings to each school district. The superintendent of public instruction shall present the reports to an interim committee designated by the legislative council.

SECTION 32. APPROPRIATION - ELIGIBLE EDUCATIONAL ASSOCIATIONS.

1. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$1,000,000, or so much of the sum as may be necessary, to the superintendent of public instruction for the purpose of providing payments to school districts that are members of eligible educational associations, for the biennium beginning July 1, 2005, and ending June 30, 2007.
2.
 - a. During June 2006 the superintendent of public instruction shall distribute seventy-five percent of the money appropriated under subsection 1 to eligible school districts on a per student basis. The total amount to which a school district is entitled under this subdivision may not exceed the amount expended by the school district during the 2005-06 school year to participate in an eligible educational association.
 - b. During June 2007 the superintendent of public instruction shall distribute the remaining money appropriated under subsection 1 to eligible school districts on a per student basis. The total amount to which a school district is entitled under this subdivision may not exceed the amount expended by the school district during the 2006-07 school year to participate in an eligible educational association.
3. For purposes of this section, an "eligible educational association" is one that is governed by a joint powers agreement that the superintendent of public instruction has verified as meeting the requirements of section 15.1-07-28.

SECTION 33. APPROPRIATION - REORGANIZATION BONUSES - CONTINGENCY. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$759,000, or so much of the sum as may be necessary, to the superintendent of public instruction for the purpose of providing a reorganization bonus to any school district having a reorganization effective on July 1, 2005, pursuant to section 15.1-12-11.1, for the biennium beginning July 1, 2005, and ending June 30, 2007. If any moneys remain after the superintendent of public instruction completes the payment of bonuses for any reorganization effective on July 1, 2005, the superintendent shall use the remaining moneys to provide additional per student payments on a prorated basis, according to the latest available average daily membership of each school district.

SECTION 34. APPROPRIATION - TRANSPORTATION EFFICIENCY TRAINING. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$30,000, or so much of the sum as may be necessary, to the superintendent of public instruction for the purpose of contracting to provide transportation efficiency training to school district personnel, for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 35. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$700,000, or so much of the sum as may be necessary, to the superintendent of public instruction for the purpose of providing additional per student payments, for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 36. REPEAL. Section 15.1-09-42 of the North Dakota Century Code is repealed.

SECTION 37. REPEAL. Section 15.1-12-11.1 of the North Dakota Century Code is repealed.

SECTION 38. REPEAL. Section 15.1-12-11.2 of the North Dakota Century Code is repealed.

SECTION 39. EFFECTIVE DATE. Sections 1, 17, and 36 of this Act become effective on July 1, 2006, and section 38 of this Act becomes effective on December 31, 2005.

Approved May 4, 2005

Filed May 4, 2005

CHAPTER 168

HOUSE BILL NO. 1311

(Representatives Nelson, Charging, Mueller)
(Senators Erbele, Taylor)

EDUCATION CONTINGENT PAYMENTS

AN ACT to amend and reenact section 37 of chapter 667 of the 2003 Session Laws, relating to contingent payments; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 37 of chapter 667 of the 2003 Session Laws is amended and reenacted as follows:

SECTION 37. CONTINGENT PAYMENTS - DISTRIBUTION. If any moneys appropriated for per student payments and transportation payments in the grants - state school aid line item in Senate Bill No. 2013 remain after payment of all statutory obligations for per student and transportation payments during the biennium beginning July 1, 2003, and ending June 30, 2005, the superintendent of public instruction shall distribute the remaining moneys as follows:

1. The superintendent of public instruction shall use the first \$119,190, or so much of that amount as is necessary, for the purpose of reimbursing eligible school districts that received reduced amounts of state aid. For the purposes of this subsection, an eligible school district is one that received a reduction in state aid during the second year of the 2003-05 biennium because the district's general fund levy fell below one hundred forty mills as the result of a reorganization or the dissolution of a contiguous district. The following affected districts listed are entitled to receive reimbursements:

<u>Velva 1</u>	<u>\$24,355</u>
<u>TGU 60</u>	<u>93,514</u>
<u>Lewis and Clark</u>	<u>1,321</u>

2. The superintendent of public instruction shall use the ~~first~~ next \$250,000, or so much of that amount as is necessary, for the purpose of providing reimbursements to the chief administrators of joint powers agreements pursuant to section 19 of this Act.
- 2- 3. The superintendent of public instruction shall use the next \$1,000,000, or so much of that amount as is necessary, for the purpose of providing reorganization bonuses, pursuant to section 15.1-12-11.1, to school districts having reorganizations effective after July 1, 2003, and before July 1, 2005. If insufficient moneys exist to fully meet the requirements of this subsection, the superintendent of public instruction shall prorate the payments

according to that percentage of the amount available to which a school district is entitled.

- ~~3.~~ 4. The superintendent of public instruction shall use the remainder of the moneys to provide additional per student payments on a prorated basis, according to the average daily membership of each school district during the 2004-05 school year.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 12, 2005

Filed April 13, 2005

CHAPTER 169**HOUSE BILL NO. 1032**

(Legislative Council)
(Education Committee)

HIGH SCHOOL SUPPLEMENTAL PAYMENTS

AN ACT to amend and reenact subsection 1 of section 15.1-27-11 of the North Dakota Century Code, relating to the formula for calculating supplemental payments to high school districts; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹¹¹ **SECTION 1. AMENDMENT.** Subsection 1 of section 15.1-27-11 of the North Dakota Century Code is amended and reenacted as follows:

1. The superintendent of public instruction shall calculate the average valuation of property per student by dividing the number of students in average daily membership in grades one through twelve in a high school district into the sum of:
 - a. The district's latest available net assessed and equalized taxable valuation of property; plus
 - b. All tuition payments and county ~~and unrestricted federal~~ revenue received by the district, divided by the total of the district's general fund levy, high school transportation levy, and high school tuition levy.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 15, 2005
Filed March 16, 2005

¹¹¹ Section 15.1-27-11 was also amended by section 15 of House Bill No. 1154, chapter 167.

CHAPTER 170**HOUSE BILL NO. 1077**

(Agriculture Committee)

(At the request of the State Treasurer)

TAYLOR GRAZING ACT FUNDS DISTRIBUTION

AN ACT to amend and reenact section 15.1-27-24 of the North Dakota Century Code, relating to distribution of Taylor Grazing Act funds to school districts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-27-24 of the North Dakota Century Code is amended and reenacted as follows:

15.1-27-24. Taylor Grazing Act funds - Disposition. The state treasurer shall apportion payments from the federal government to this state under the provisions of 43 United States Code 315i (the Taylor Grazing Act) among the counties in the state in the proportion that the number of acres [hectares] of Taylor Grazing Act land in each county bears to the total amount of Taylor Grazing Act land in the state. The state treasurer shall ~~make the distributions~~ calculate each county's apportioned payment and provide the payment to the county treasurer of each county receiving payments. Each county treasurer receiving payments shall distribute the funds to school districts in each that county on the basis of average daily membership of all students residing within the county.

Approved March 4, 2005

Filed March 4, 2005

CHAPTER 171**SENATE BILL NO. 2262**

(Senators Bowman, Wardner)
(Representatives N. Johnson, Rennerfeldt)

COUNTY MINERAL ROYALTY EXPENDITURES

AN ACT to amend and reenact subsection 4 of section 15.1-27-25 of the North Dakota Century Code, relating to expenditure of federal mineral royalties by counties.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 4 of section 15.1-27-25 of the North Dakota Century Code is amended and reenacted as follows:

4. The counties may use any money received under this section only for the planning, construction, and maintenance of public facilities and the provision of public services. As used in this section, public facilities include any facility used primarily for public use as determined by the board of county commissioners whether located on public or private property.

Approved March 16, 2005

Filed March 17, 2005

CHAPTER 172**SENATE BILL NO. 2084**

(Education Committee)

(At the request of the Superintendent of Public Instruction)

NONOPERATING SCHOOL DISTRICTS REPEAL

AN ACT to repeal section 15.1-27-33 of the North Dakota Century Code, relating to nonoperating school districts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. REPEAL. Section 15.1-27-33 of the North Dakota Century Code is repealed.

Approved March 7, 2005

Filed March 8, 2005

CHAPTER 173**SENATE BILL NO. 2109**

(Education Committee)

(At the request of the Superintendent of Public Instruction and the Board of University and School Lands)

STATE TUITION FUND DEPOSITS

AN ACT to amend and reenact section 15.1-28-01 of the North Dakota Century Code, relating to deposits paid into the state tuition fund.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-28-01 of the North Dakota Century Code is amended and reenacted as follows:

15.1-28-01. State tuition fund - Source. The net proceeds of fines for the violation of state laws, ~~payments for school land leases, and interest and income distributions received~~ from the common schools trust fund must be paid into the state treasury and constitute the state tuition fund.

Approved March 14, 2005

Filed March 14, 2005

CHAPTER 174**SENATE BILL NO. 2110**

(Political Subdivisions Committee)

(At the request of the Board of University and School Lands)

SCHOOL LAND LEASE PAYMENT COLLECTION

AN ACT to amend and reenact section 15.1-28-02 of the North Dakota Century Code, relating to removal of the duty of county treasurers to collect payments for the leasing of school lands.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-28-02 of the North Dakota Century Code is amended and reenacted as follows:

15.1-28-02. Reports of county treasurer. The county treasurer shall collect the net proceeds of all fines for violation of state laws ~~and all payments for school land leases within the county~~ and shall forward the amounts collected, together with a detailed statement of the moneys collected, to the state treasurer on or before the fifteenth of each month.

Approved March 7, 2005

Filed March 8, 2005

CHAPTER 175

HOUSE BILL NO. 1194

(Representatives Drovdal, Brandenburg, Kempenich)
(Senator Bowman)

STUDENT CROSS-BORDER ATTENDANCE

AN ACT to create and enact a new section to chapter 15.1-29 of the North Dakota Century Code, relating to contract terms for the cross-border attendance of elementary and high school students.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 15.1-29 of the North Dakota Century Code is created and enacted as follows:

Cross-border attendance - Contract with South Dakota.

1. A student who resides in a North Dakota school district contiguous to the South Dakota border may attend school in South Dakota, and a student who resides in a South Dakota school district contiguous to the North Dakota border may attend school in North Dakota, provided the superintendent of public instruction has entered into a contract with the secretary of the South Dakota department of education for the cross-border attendance of eligible students.
2. A contract entered under subsection 1 must set forth:
 - a. An application procedure;
 - b. Causes for denial of an application; and
 - c. The manner and notification of acceptance.
3. A contract entered under subsection 1 must authorize the superintendent of public instruction to count any South Dakota student participating in cross-border attendance under this section for the purposes of determining the amount of state aid to which a school district in this state is entitled. The superintendent of public instruction may not count a North Dakota student participating in cross-border attendance in accordance with the contract for purposes of determining the amount of state aid to which a school district in this state is entitled.
4. A contract entered under subsection 1 must provide that if there are more students from North Dakota than South Dakota participating in cross-border attendance under this section, the superintendent of public instruction shall forward to the secretary of the South Dakota department of education, on behalf of each excess student, an amount annually agreed to by the superintendent and the secretary as reflecting the average cost of education per student in the school districts participating in cross-border attendance in accordance with the contract. The contract must also provide that if there are more students from South Dakota than North Dakota participating in cross-border

attendance under this section, the secretary shall forward to the superintendent, on behalf of each excess student, an amount annually agreed to by the superintendent and the secretary as reflecting the average cost of education per student in the school districts participating in cross-border attendance in accordance with the contract.

5. The superintendent of public instruction shall annually reconcile the number of students from each school district in this state who participate in cross-border attendance under this section with the number of students from school districts in South Dakota who participate in cross-border attendance under this section. The superintendent of public instruction shall withhold from each school district's state aid an amount equal to the cost incurred by the state on the part of the school district in permitting the cross-border attendance of students under this section.
6. A student who requires special education services may participate in cross-border attendance under this section, provided the contract entered under subsection 1 sets forth each school district's and each state's responsibilities for payment of any excess costs incurred as a result of providing the services to the student.
7. Each school district may provide transportation to students participating in cross-border attendance under this section. However, the superintendent of public instruction may include only transportation provided within this state for purposes of determining the state transportation aid to which a district is entitled.
8. Sections 15.1-29-01 through 15.1-29-13 do not apply to students participating in cross-border attendance under this section.

Approved March 22, 2005
Filed March 23, 2005

CHAPTER 176

SENATE BILL NO. 2033

(Legislative Council)
(Education Committee)

STUDENT RESIDENCY DETERMINATIONS AND PLACEMENT

AN ACT to create and enact a new section to chapter 15.1-29 of the North Dakota Century Code, relating to the enrollment and provision of services to elementary and high school students placed by out-of-state agencies or entities; and to amend and reenact section 15.1-29-14 of the North Dakota Century Code, relating to elementary and high school student residency determinations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-29-14 of the North Dakota Century Code is amended and reenacted as follows:

15.1-29-14. Student placement for noneducational purposes - Residency determination - Payment of tuition.

1. a. ~~For~~ Except as provided in subdivision b, for purposes of applying this chapter, a student's school district of residence is the district in which the ~~student~~ student's custodial parent or legal guardian resides:
 - a. (1) At the time that a state court, tribal court, juvenile supervisor, or the division of juvenile services issues an order requiring the student to stay for a prescribed period at a state-licensed foster home or at a state-licensed child care home or facility;
 - b. (2) At the time a county or state social service agency places the student, with the consent of the student's parent or legal guardian, at a state-licensed foster home or at a state-licensed child care home or facility;
 - e. (3) At the time the student is initially placed in a state-operated institution, even if the student is later placed at a state-licensed foster home or at a state-licensed child care home or facility; or
 - e. (4) At the time the student is placed voluntarily admitted to, by a parent or legal guardian, in a state-operated institution or to ~~to~~ in a state-licensed child care home or facility, or program, located outside the student's school district of residence, including those defined in sections 25-01.2-01 and 50-11-00.1.
- b. A determination regarding the student's school district of residence made under subdivision a is valid until the September fifteenth

following the determination. On that date and each September fifteenth thereafter, the placing agency or the entity funding the student's placement shall determine the district in which the student's custodial parent or legal guardian resides and shall notify the district that it is deemed to be the student's district of residence for purposes of this chapter. If, however, the student is placed in accordance with paragraph 4 of subdivision a and the placement is privately funded, the administrator of the facility or program in which the student is placed shall determine the student's school district of residence and provide the notification required by this subdivision.

2. The student's school district of residence is obligated to pay:
 - a. All charges for tuition upon claim of the admitting district; and
 - b. All charges for tutoring services upon claim of an admitting facility, provided that the tutoring services are delivered by an individual who is licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board.
3. ~~a. If, after a student placement is made as provided for under subsection 1, the student's custodial parent establishes residency in another school district in this state, the school district in which the custodial parent has established residency becomes the student's school district of residence for purposes of paying tuition and tutoring charges under subsection 2.~~
 - b. The state shall pay the tuition and tutoring charges under subsection 2 from funds appropriated by the legislative assembly for state aid to schools:
 - (1) ~~If if, on the September fifteenth~~ after a student placement is made as provided for under subsection 1, ~~the~~;
 - a. The student's custodial parent or legal guardian establishes residency outside this state; ~~or~~
 - (2) ~~If a~~
 - b. A court orders a termination of parental rights with respect to the student's parents;
 - c. The student no longer has a custodial parent; or
 - d. The superintendent of public instruction has determined that all reasonable efforts to locate a parent or legal guardian have been unsuccessful.
4. If the student is voluntarily admitted to a state-licensed child care home or facility, or to a state-operated institution, the student's parent or, if one has been appointed, the student's legal guardian may appeal a determination under section 15.1-29-05 regarding the payment of tuition by filing a petition with the county superintendent of schools. Within fifteen days of receiving the petition, the three-member committee

established under section 15.1-29-06 shall consult with the boards of the affected school districts and with the student's parent or legal guardian and render a decision regarding responsibility for the payment of tuition charges.

5. If the student's district of residence does not pay the required tuition, the admitting district or facility shall notify the superintendent of public instruction. Upon verification that tuition payments are due and unpaid, the superintendent shall withhold an amount equal to the unpaid tuition from state aid otherwise payable to the student's school district of residence until the tuition due has been fully paid.
6. An amount equal to the state average per student elementary or high school cost, depending on the student's grade of enrollment, is payable to the admitting district or facility as part of the cost of educating the student for the school year. The payment may not exceed the actual per student cost incurred by the admitting district or facility. The remainder of the actual cost of educating the student not covered by other payments or credits must be paid by the state, within the limits of legislative appropriations, from funds appropriated for special education in the case of a student with disabilities or from state aid payments to schools in all other cases.
7. If a student with disabilities placed in accordance with this section reaches age eighteen and continues to receive special education and related services, the student's school district of residence is deemed to be the same as that of the student's custodial parent until the special education services are concluded. If the student's custodial parent establishes residency outside this state, or if a court orders a termination of parental rights with respect to the student's parents, the state shall pay the tuition and tutoring charges under subsection 2 from funds appropriated by the legislative assembly for state aid to schools. The obligations of the student's school district of residence as provided in subsection 2 and the obligations of the state as provided in subsection 3 are applicable to all students described in this subsection.
8. a. The placing agency or entity funding the student's placement shall provide written or electronic notice regarding an initial placement and all subsequent placements of a student, by registered mail, to the superintendent of the student's school district of residence and to the superintendent of the admitting district:
 - (1) Within five working days after a placement is made under court order;
 - (2) Within five working days after an emergency placement is made; or
 - (3) At least ten working days prior to any other placement.
- b. If, however, the student's parent or legal guardian voluntarily places the student in a state-operated institution or in a state-licensed child care home, facility, or program, located outside the student's school district of residence, including those defined in sections 25-01.2-01 and 50-11-00.1, and if the placement is privately funded, the administrator of the facility or program in

- which the student is placed shall determine the student's school district of residence and provide the notification required by this section.
- c. The ~~written~~ notice must include any information requested by the superintendent of public instruction for purposes of determining payment responsibility.
- e. d. The placing agency shall afford the student's school district of residence reasonable opportunity to participate in permanency planning for the student.
9. Notwithstanding this section, educational services provided to a student by the youth correctional center are not subject to the payment of tuition by either the student's school district of residence or the superintendent of public instruction.
10. For purposes of this section, "custodial parent" means the parent who has been awarded sole legal and physical custody of the student in a legal proceeding or, if there is currently no operative custody order, the parent with whom the student resides. If the student resides with both parents, then both are custodial parents.

SECTION 2. A new section to chapter 15.1-29 of the North Dakota Century Code is created and enacted as follows:

Placement of student by out-of-state agency or entity - Provision of services - Contract - Responsibility for tuition and charges. A school district in this state may not enroll a student who is placed in the district for purposes other than education by an out-of-state agency or entity and whose school district of residence is located in another state, unless:

1. This state and the student's state or school district of residence have entered a contract that addresses responsibility for the payment of all tuition and tutoring charges; or
2. Other contractual arrangements exist governing responsibility for the payment of all tuition and tutoring charges.

Approved March 23, 2005
Filed March 23, 2005

CHAPTER 177

HOUSE BILL NO. 1237

(Representatives Hawken, Delmore, N. Johnson)
(Senators Erbele, Flakoll)

SPECIAL EDUCATION PER STUDENT PAYMENTS

AN ACT to amend and reenact section 15.1-32-14 of the North Dakota Century Code, relating to the forwarding of special education per student payments.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-32-14 of the North Dakota Century Code is amended and reenacted as follows:

15.1-32-14. Special education per student payments.

1. A If a student with disabilities who receives special education services is deemed to be enrolled in the student's, the superintendent of public instruction shall forward any per student payments, payable on behalf of that student, directly to the school district of residence for purposes of calculating per student payments in which the student receives such services.
2. An If a student with disabilities attends a special education summer program required by the student's individualized education program or services plan and approved by the superintendent of public instruction, the superintendent of public instruction shall forward any additional prorated per student payment may be made if a student with disabilities attends a special education summer program approved by the superintendent of public instruction, provided the student's individualized education program or services plan requires that the student attend a special education summer program payments, payable on behalf of the student, directly to the school district in which the student receives such services.
3. If a student who is enrolled in a nonpublic school receives special education services in a public school, the superintendent of public instruction shall forward a proportionate per student payment to the school district in which the student receives the services.
4. a. If in the opinion of an individualized education program team or a services plan team a student is unable to attend a public school in the special education unit to which the student's school district of residence belongs, the student's school district of residence shall contract with another public school that:
 - (1) Does not belong to the same special education unit;
 - (2) Is located in this state;
 - (3) Is willing to admit the student; and

- (4) Is able to provide appropriate services to the student.
- b. The superintendent of public instruction shall approve in advance the terms of the contract and the services to be provided by the admitting school.
 - c. The contract must provide that the student's school district of residence agrees to pay to the district in which the ~~admitting school is located~~ student receives services, as part of the cost of educating the student for the school year, an amount equal to two and one-half times the state average per student elementary or high school cost, depending upon the student's level of enrollment, plus twenty percent of all remaining costs. The amount paid may not exceed the actual per student cost incurred by the admitting school, less any per student payment received on behalf of the student under this section.
 - d. The liability of the student's school district of residence must be reduced proportionately if the student attends the admitting school for less than an entire school year.
 - e. Upon being notified by the ~~admitting~~ district in which the student receives services that tuition payments provided for by this section are due and unpaid, the superintendent of public instruction, after verification, shall withhold all state aid payments to which the student's school district of residence is entitled until the tuition due has been paid.
 - f. The superintendent of public instruction shall provide to the school district in which the student receives services, within the limits of legislative appropriations, an amount equal to eighty percent of the remainder of the actual cost of educating the student with disabilities not covered by other payments or credits.

Approved March 7, 2005
Filed March 8, 2005

CHAPTER 178

SENATE BILL NO. 2260

(Senators Seymour, Erbele, Flakoll, Holmberg)
(Representatives Herbel, Horter)

EARLY CHILDHOOD EDUCATION

AN ACT to create and enact a new chapter to title 15.1 of the North Dakota Century Code, relating to early childhood education.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new chapter to title 15.1 of the North Dakota Century Code is created and enacted as follows:

Early childhood education program - Approval. Any person or school district operating an early childhood education program may request approval of the program from the superintendent of public instruction. The superintendent shall approve an early childhood education program if the program:

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

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

Approved March 25, 2005

Filed March 25, 2005

CHAPTER 179

HOUSE BILL NO. 1374

(Representatives Hawken, Delmore, R. Kelsch, L. Meier)
(Senators Flakoll, Holmberg)

ENGLISH LANGUAGE LEARNER PROGRAMS

AN ACT to create and enact a new chapter to title 15.1 of the North Dakota Century Code, relating to school district programs for English language learners.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new chapter to title 15.1 of the North Dakota Century Code is created and enacted as follows:

English language learners - Program of instruction. Each school district shall provide a program of instruction for students who are English language learners. The program may be provided by a school district or in conjunction with one or more districts.

Program establishment. The superintendent of public instruction shall:

1. Appoint a state advisory committee to assist with the establishment and administration of English language learner programs and the state English language proficiency assessment;
2. Establish standards for English language learner programs;
3. Ensure that the English language learner programs use effective research-based methods to teach the students;
4. Assist school districts with the development and administration of English language learner programs and services;
5. Employ a program administrator and other necessary personnel; and
6. Coordinate federal, state, and local funding to maximize the services available to students.

English language learner services - Individualized plans. If a school district determines through assessment that a student requires English language learner services, the school district shall convene a team to review the student's language and educational needs. The team may develop an individualized language plan and recommend specialized language instruction and related services.

Approved April 12, 2005
Filed April 13, 2005