

**FIRST ENGROSSMENT  
with House Amendments**

Sixtieth  
Legislative Assembly  
of North Dakota

**ENGROSSED SENATE BILL NO. 2200**

Introduced by

Senators Flakoll, Holmberg, O'Connell

Representatives Gulleeson, R. Kelsch, Monson

1 A BILL for an Act to create and enact ten new sections to chapter 15.1-27, a new section to  
2 chapter 15.1-36, and two new sections to chapter 15.1-38 of the North Dakota Century Code,  
3 relating to the determination of state aid to school districts; to amend and reenact section  
4 15.1-02-09, subsection 4 of section 15.1-06-04, subsection 6 of section 15.1-07-28, and  
5 sections 15.1-23-19, 15.1-27-01, 15.1-27-02, 15.1-27-04, 15.1-27-08, 15.1-27-09, 15.1-27-10,  
6 15.1-27-11, 15.1-27-15, 15.1-27-16, 15.1-27-17, 15.1-27-18, 15.1-27-19, 15.1-27-20,  
7 15.1-27-35, 15.1-28-03, 15.1-29-01, 15.1-29-02, 15.1-29-12, 15.1-29-14, 15.1-29-15,  
8 15.1-31-03, 15.1-31-04, 15.1-31-07, 15.1-32-08, 15.1-32-14, 15.1-32-15, 15.1-32-16,  
9 15.1-32-18, 15.1-33-02, 15.1-36-02, and 57-15-14 of the North Dakota Century Code, relating  
10 to the determination of state aid to school districts; to repeal sections 15.1-09-46, 15.1-27-05,  
11 15.1-27-06, 15.1-27-07, 15.1-27-12, 15.1-27-14, 15.1-27-21, 15.1-27-32, 15.1-27-36,  
12 15.1-27-37, and 15.1-27-38 of the North Dakota Century Code, relating to the school district  
13 census, the school district equalization factor, weighting factors, supplemental payments,  
14 additional per student payments, property valuations, and teacher compensation payments; to  
15 provide for a commission on education improvement; to provide for teacher compensation  
16 increases; to provide for future determinations of average daily membership; to provide for  
17 contingent payments; to provide for a contingent transfer; to provide for reports to the legislative  
18 council; and to provide an expiration date.

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

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

22 **15.1-02-09. School district finance facts report - Contents.** The superintendent of  
23 public instruction shall submit an annual report on the financial condition of school districts to  
24 the governor, legislative council, and the secretary of state by the end of February. The

1 secretary of state shall transmit the report to state archivist for official and public use. The  
2 report must include:

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

15 **SECTION 2. AMENDMENT.** Subsection 4 of section 15.1-06-04 of the North Dakota  
16 Century Code is amended and reenacted as follows:

- 17 4. a. A During the 2007-08 school year, a full day of instruction consists of:
  - 18 a- (1) At least five and one-half hours for elementary students, during which  
19 time the students are required to be in attendance for the purpose of  
20 receiving curricular instruction; and
  - 21 b- (2) At least six hours for high school students, during which time the  
22 students are required to be in attendance for the purpose of receiving  
23 curricular instruction.
- 24 b. Beginning with the 2008-09 school year, a full day of instruction consists of:
  - 25 (1) At least five and one-half hours for kindergarten and elementary  
26 students, during which time the students are required to be in  
27 attendance for the purpose of receiving curricular instruction; and
  - 28 (2) At least six hours for high school students, during which time the  
29 students are required to be in attendance for the purpose of receiving  
30 curricular instruction.

1           **SECTION 3. AMENDMENT.** Subsection 6 of section 15.1-07-28 of the North Dakota  
2 Century Code is amended and reenacted as follows:

3           6. The joint powers agreement provides for the employment and compensation of  
4 any staff necessary to carry out the provisions of the agreement and the  
5 requirements of sections ~~15.1-06-04, 15.1-06-06, 15.1-07-28, 15.1-07-30,~~  
6 ~~15.1-09-01, 15.1-12-26, 15.1-12-27, 15.1-12-29, 15.1-18-07, 15.1-22-01,~~  
7 ~~15.1-27-04, 15.1-27-05, 15.1-27-06, 15.1-27-07, 15.1-27-11, 15.1-27-15,~~  
8 ~~15.1-27-35, 15.1-27-37, 15.1-27-39, 15.1-27-40, 15.1-28-03, 15.1-29-03,~~  
9 ~~15.1-29-04, and 15.1-29-12.~~

10           **SECTION 4. AMENDMENT.** Section 15.1-23-19 of the North Dakota Century Code is  
11 amended and reenacted as follows:

12           **15.1-23-19. Home education - State aid to school districts.** For purposes of  
13 allocating state aid to school districts, a child receiving home education is ~~deemed enrolled in~~  
14 ~~the child's school district of residence if the child is monitored by an individual who is licensed~~  
15 ~~to teach by the education standards and practices board or approved to teach by the education~~  
16 ~~standards and practices board and employed by the public school district in which the child~~  
17 ~~resides. A school district is entitled to fifty percent of the per student payment provided in~~  
18 ~~section 15.1-27-04 times the appropriate factor in section 15.1-27-06 or 15.1-27-07 for each~~  
19 ~~child receiving home education. If a child receiving home education is enrolled in public school~~  
20 ~~classes, proportionate payments must be made. The total amount may not exceed the~~  
21 ~~equivalent of one full per student payment times the appropriate weighting factor included in a~~  
22 school district's determination of average daily membership only for those days or portions of  
23 days that the child attends a public school.

24           **SECTION 5. AMENDMENT.** Section 15.1-27-01 of the North Dakota Century Code is  
25 amended and reenacted as follows:

26           **15.1-27-01. Payments to school districts - Distribution.**

27           1. The superintendent of public instruction shall ~~determine~~ estimate the total state  
28 payments ~~made to each~~ to which a school district during the previous fiscal is  
29 entitled each year.

30           2. The superintendent of public instruction shall pay each district ten percent of the  
31 amount determined under subsection 1, within the limits of legislative

- 1           appropriation, on or before August first and September first of each year. The  
2           superintendent shall pay each school district twenty percent of that amount, within  
3           the limits of legislative appropriation, on or before October first of each year.
- 4           3. The superintendent of public instruction shall ~~determine~~ estimate the amount that,  
5           in addition to the payments already made, is necessary to constitute the remainder  
6           of the amount due each district for the current school year.
- 7           4. On or before November first, the superintendent of public instruction shall pay to  
8           each district, within the limits of legislative appropriation, an amount that, in  
9           addition to the above payments, constitutes sixty percent of the sum due under this  
10          chapter.
- 11          5. On or before the first day of December, January, February, March, and April,  
12          payments equal to twenty percent of the total remaining payments must be made  
13          to each district.
- 14          6. If funds appropriated for distribution to districts as state aid become available after  
15          April first, the superintendent of public instruction shall distribute the newly  
16          available payments on or before June thirtieth.

17          **SECTION 6. AMENDMENT.** Section 15.1-27-02 of the North Dakota Century Code is  
18          amended and reenacted as follows:

19          **15.1-27-02. Per student payments - Required reports.**

- 20          1. The superintendent of public instruction may not forward state aid payments to a  
21          school district beyond the October payment unless the district has filed the  
22          following with the superintendent:
- 23                  a. ~~An annual average daily~~ The June thirtieth student membership and  
24                  attendance report;
- 25                  b. An annual school district financial report;
- 26                  c. The September tenth fall enrollment report; and
- 27                  d. The personnel report forms for licensed and nonlicensed employees.
- 28          2. On or before December fifteenth, each school district shall file with the  
29          superintendent of public instruction the taxable valuation and mill levy  
30          certifications. If a district fails to file the taxable valuation and mill levy  
31          certifications by the required date, the superintendent of public instruction may not

1 forward to the district any state aid payments to which the district is entitled, until  
2 the taxable valuation and mill levy certifications are filed.

3 **SECTION 7.** A new section to chapter 15.1-27 of the North Dakota Century Code is  
4 created and enacted as follows:

5 **Weighted average daily membership - Determination.**

- 6 1. For each school district, the superintendent of public instruction shall multiply by:
- 7 a. 1.00 the number of students enrolled in a migrant summer program;  
8 b. 1.00 the number of students enrolled in an extended educational program in  
9 accordance with section 15.1-32-17;  
10 c. 0.60 the number of students enrolled in a summer education program;  
11 d. 0.50 the number of students enrolled in a home-based education program  
12 and monitored by the school district under chapter 15.1-23;  
13 e. 0.25 the number of students enrolled in an alternative high school;  
14 f. 0.25 the number of students enrolled in an isolated elementary school;  
15 g. 0.25 the number of students enrolled in an isolated high school;  
16 h. 0.20 the number of students attending school in a bordering state in  
17 accordance with section 15.1-29-01;  
18 i. 0.17 the number of students enrolled in an early childhood special education  
19 program;  
20 j. 0.14 the number of students enrolled in a new immigrant English language  
21 learner program;  
22 k. 0.067 the number of students enrolled in average daily membership, in order  
23 to support the provision of special education services; and  
24 l. 0.02 the number of students, other than those provided for in subdivision j,  
25 who are enrolled in an English language learner program.
- 26 2. The superintendent of public instruction shall determine each school district's  
27 weighted average daily membership by adding the products derived under  
28 subsection 1 to the district's average daily membership.

29 **SECTION 8.** A new section to chapter 15.1-27 of the North Dakota Century Code is  
30 created and enacted as follows:

31 **School district size weighting factor - Weighted student units.**

- 1           1. For each high school district in the state, the superintendent of public instruction  
2           shall assign a school district size weighting factor of:
- 3           a. 1.25 if the students in average daily membership number fewer than 185;  
4           b. 1.24 if the students in average daily membership number at least 185 but  
5           fewer than 200;
- 6           c. 1.23 if the students in average daily membership number at least 200 but  
7           fewer than 215;
- 8           d. 1.22 if the students in average daily membership number at least 215 but  
9           fewer than 230;
- 10          e. 1.21 if the students in average daily membership number at least 230 but  
11          fewer than 245;
- 12          f. 1.20 if the students in average daily membership number at least 245 but  
13          fewer than 260;
- 14          g. 1.19 if the students in average daily membership number at least 260 but  
15          fewer than 270;
- 16          h. 1.18 if the students in average daily membership number at least 270 but  
17          fewer than 275;
- 18          i. 1.17 if the students in average daily membership number at least 275 but  
19          fewer than 280;
- 20          j. 1.16 if the students in average daily membership number at least 280 but  
21          fewer than 285;
- 22          k. 1.15 if the students in average daily membership number at least 285 but  
23          fewer than 290;
- 24          l. 1.14 if the students in average daily membership number at least 290 but  
25          fewer than 295;
- 26          m. 1.13 if the students in average daily membership number at least 295 but  
27          fewer than 300;
- 28          n. 1.12 if the students in average daily membership number at least 300 but  
29          fewer than 305;
- 30          o. 1.11 if the students in average daily membership number at least 305 but  
31          fewer than 310;

- 1 p. 1.10 if the students in average daily membership number at least 310 but  
2 fewer than 320;
- 3 q. 1.09 if the students in average daily membership number at least 320 but  
4 fewer than 335;
- 5 r. 1.08 if the students in average daily membership number at least 335 but  
6 fewer than 350;
- 7 s. 1.07 if the students in average daily membership number at least 350 but  
8 fewer than 360;
- 9 t. 1.06 if the students in average daily membership number at least 360 but  
10 fewer than 370;
- 11 u. 1.05 if the students in average daily membership number at least 370 but  
12 fewer than 380;
- 13 v. 1.04 if the students in average daily membership number at least 380 but  
14 fewer than 390;
- 15 w. 1.03 if the students in average daily membership number at least 390 but  
16 fewer than 400;
- 17 x. 1.02 if the students in average daily membership number at least 400 but  
18 fewer than 600;
- 19 y. 1.01 if the students in average daily membership number at least 600 but  
20 fewer than 900; and
- 21 z. 1.00 if the students in average daily membership number at least 900.
- 22 2. For each elementary district in the state, the superintendent of public instruction  
23 shall assign a weighting factor of:
- 24 a. 1.25 if the students in average daily membership number fewer than 125;  
25 b. 1.17 if the students in average daily membership number at least 125 but  
26 fewer than 200; and
- 27 c. 1.00 if the students in average daily membership number at least 200.
- 28 3. The school district size weighting factor determined under this section and  
29 multiplied by a school district's weighted average daily membership equals the  
30 district's weighted student units.

1           4. Notwithstanding the provisions of this section, the school district size weighting  
2           factor assigned to a district may not be less than the factor arrived at when the  
3           highest number of students possible in average daily membership is multiplied by  
4           the school district size weighting factor for the subdivision immediately preceding  
5           the district's actual subdivision and then divided by the district's average daily  
6           membership.

7           **SECTION 9. AMENDMENT.** Section 15.1-27-04 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9           **15.1-27-04. Per student payment rate.**

- 10          1. a. The per student payment rate to which each school district is entitled for the  
11           first year of the biennium is ~~two~~ three thousand ~~seven hundred sixty five~~  
12           forty-two dollars.
- 13          b. The per student payment rate to which each school district is entitled for the  
14           second year of the biennium is ~~two~~ three thousand ~~eight one~~ hundred  
15           seventy-nine forty dollars. ~~The per student amount is the basis for calculating~~  
16           ~~state payments to school districts, as provided in sections 15.1-27-06 and~~  
17           ~~15.1-27-07.~~
- 18          2. In order to determine the state aid payment to which each district is entitled, the  
19           superintendent of public instruction shall multiply each district's weighted student  
20           units by the per student payment rate set forth in subsection 1.

21          **SECTION 10.** A new section to chapter 15.1-27 of the North Dakota Century Code is  
22 created and enacted as follows:

23          **Kindergarten payments - Determination.** Notwithstanding the provisions of section  
24 15.1-27-35, the superintendent of public instruction shall determine the payments to which a  
25 school district is entitled for providing full-time kindergarten during the 2008-09 school year by  
26 using the district's 2008 kindergarten fall enrollment count.

27          **SECTION 11.** A new section to chapter 15.1-27 of the North Dakota Century Code is  
28 created and enacted as follows:

29          **Baseline funding - Determination - Minimum and maximum allowable increases.**

- 30          1. The superintendent of public instruction shall determine each school district's  
31           baseline funding per weighted student unit by:

- 1           a. Adding together all state aid received by the district during the 2006-07 school  
2           year, except fifty percent of those distributions provided for in the final  
3           subsection of section 28 of chapter 167 of the 2005 Session Laws, as  
4           amended in 2007 Senate Bill No. 2013 and approved by the sixtieth  
5           legislative assembly;
- 6           b. Subtracting the amount received by the district during the 2006-07 school  
7           year for transportation aid, special education excess cost reimbursements,  
8           special education contracts, prior year funding adjustments, and per student  
9           payments for participation in educational associations governed by joint  
10          powers agreements; and
- 11          c. Dividing the amount determined under subdivision b by the district's 2007-08  
12          weighted student units.
- 13          2. a. The superintendent of public instruction shall ensure that the total amount of  
14          state aid payable to a district per weighted student unit, for the 2007-08  
15          school year, is at least equal to one hundred two percent of the baseline  
16          funding per weighted student unit, as established in subsection 1.
- 17          b. The superintendent of public instruction shall ensure that the total amount of  
18          state aid payable to a district per weighted student unit, for each school year  
19          after the 2007-08 school year, is at least equal to one hundred three percent  
20          of the baseline funding per weighted student unit, as established in  
21          subsection 1.
- 22          3. a. The superintendent of public instruction shall ensure that the total amount of  
23          state aid payable to a district per weighted student unit, less any amount  
24          received as equity payments under section 15.1-27-11 per weighted student  
25          unit, does not exceed, for the 2007-08 school year, one hundred seven  
26          percent of the baseline funding per weighted student unit, as established in  
27          subsection 1.
- 28          b. Beginning with the 2008-09 school year, the maximum percentage of  
29          allowable growth in the baseline funding per weighted student unit provided in  
30          subdivision a must be annually increased by three percentage points, plus the  
31          district's share of any increased state aid for that year. Payments received by

1                   districts for the provision of full-day kindergarten do not constitute increases in  
2                   state aid for purposes of this subdivision.

3                   **SECTION 12. AMENDMENT.** Section 15.1-27-08 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5                   **15.1-27-08. Per student payments - Unaccredited high schools.**

6                   1.   If a high school becomes unaccredited, the superintendent of public instruction  
7                   shall determine the per student payment to which the school district is entitled  
8                   during the first year in which the high school is unaccredited ~~is the amount~~  
9                   established in section 15.1-27-04. ~~The school district is not entitled to the amount~~  
10                  ~~that results from applying the weighting factors provided in section 15.1-27-06.~~ ~~In~~  
11                  ~~each successive year, the per student payment to which the school district is~~  
12                  ~~entitled for each student in the unaccredited high school must be reduced by an~~  
13                  ~~additional two hundred dollars.~~ by:

14                  a.   Applying the school district size weighting factor assigned under section 8 of  
15                  this Act to all students in average daily membership in any public school in  
16                  the district other than the unaccredited high school; and  
17                  b.   Applying a weighting factor of 1.00 to all students in average daily  
18                  membership in the unaccredited high school.

19                  2.   If the high school remains unaccredited for a second year, the superintendent of  
20                  public instruction shall determine the per student payment to which the school  
21                  district is entitled by:

22                  a.   Applying the school district size weighting factor assigned under section 8 of  
23                  this Act to all students in average daily membership in any public school in  
24                  the district other than the unaccredited high school;

25                  b.   Applying a weighting factor of 1.00 to all students in average daily  
26                  membership in the unaccredited high school; and

27                  c.   Reducing any payment to which the school district is entitled for each student  
28                  in average daily membership in the unaccredited high school by two hundred  
29                  dollars.

30                  3.   If the high school remains unaccredited for a third year, and each year thereafter,  
31                  the superintendent of public instruction shall determine the per student payment to

1           which the school district is entitled as provided in subsection 2, and the  
2           superintendent shall reduce the payment for each student as provided in  
3           subdivision c of subsection 2 by two hundred dollars each year.

4           4. If a the high school regains its accreditation, the school district is entitled to the per  
5           student payments provided for accredited schools for the entire school year in  
6           which the school becomes accredited.

7           **SECTION 13. AMENDMENT.** Section 15.1-27-09 of the North Dakota Century Code is  
8           amended and reenacted as follows:

9           **15.1-27-09. Per student payments - Unaccredited elementary schools.**

- 10          1. If an elementary school becomes unaccredited, the superintendent of public  
11          instruction may not reduce the per student payment to which the school district is  
12          entitled during the first year in which the school is unaccredited.
- 13          2. If a an elementary school district operates an ~~remains~~ unaccredited elementary  
14          ~~school, the per student payment to which the school district is entitled during the~~  
15          ~~first year in which the elementary school is unaccredited is the amount established~~  
16          ~~in section 15.1-27-04. The school district is entitled to the amount that results from~~  
17          ~~applying the weighting factors provided in section 15.1-27-07. In each successive~~  
18          ~~for a second year, the superintendent of public instruction shall reduce the per~~  
19          ~~student payment to which the school district is entitled for each student~~ in average  
20          daily membership in the unaccredited elementary school ~~must be reduced by an~~  
21          ~~additional~~ two hundred dollars.
- 22          3. If the elementary school remains unaccredited for a third year, and each year  
23          thereafter, the superintendent of public instruction shall reduce the payment for  
24          each student as provided in subsection 2 by two hundred dollars each year.
- 25          4. If a the elementary school regains its accreditation, the school district is entitled to  
26          the per student payments provided for accredited schools for the entire school year  
27          in which the school becomes accredited.

28          **SECTION 14. AMENDMENT.** Section 15.1-27-10 of the North Dakota Century Code is  
29          amended and reenacted as follows:

30          **15.1-27-10. Per student payments - Special education.**

- 1           1. ~~Except as provided in subsection 2, each biennium the superintendent of public~~  
2           ~~instruction shall distribute moneys appropriated by the legislative assembly for per~~  
3           ~~student special education payments to each school district in the state on the basis~~  
4           ~~of students in average daily membership. The superintendent of public instruction~~  
5           ~~shall forward the payments, as calculated under section 15.1-27-05, to eligible~~  
6           ~~school districts in the same manner and at the same time that the superintendent~~  
7           ~~distributes state aid payments. For purposes of this section, "special education"~~  
8           ~~means the provision of special services to students who have special needs,~~  
9           ~~including students who are gifted and talented. Expenditures under this section~~  
10           ~~may not conflict with nonsupplanting and maintenance of effort provisions under~~  
11           ~~the Individuals With Disabilities Education Act, 20 United States Code 1400 et seq.~~
- 12           ~~2.~~ 2. Upon the written request of a school district, the superintendent of public  
13           instruction may forward all or a portion of the moneys any per student special  
14           education payments to which ~~the~~ a school district is entitled ~~under this section~~  
15           directly to the special education unit of which the school district is a member.
- 16           ~~3.~~ 2. The superintendent of public instruction may withhold state special education  
17           funds due a school district if, in response to a complaint, the superintendent finds  
18           that the district is not providing a free appropriate public education to a student as  
19           required by law. Any withholding under this subsection may not exceed an amount  
20           equal to the cost of meeting the affected student's needs.

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

23           **15.1-27-11. ~~High school districts—~~Supplemental Equity payments.**

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

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- 1           2. ~~The superintendent of public instruction shall verify that:~~
- 2           a. ~~The quotient arrived at under subsection 1 is less than the latest available~~
- 3           ~~statewide average taxable valuation per student;~~
- 4           b. ~~The district's educational expenditure per student is below the most recent~~
- 5           ~~available statewide average cost of education per student;~~
- 6           e. ~~The district has a general fund levy of at least one hundred eighty mills; and~~
- 7           d. ~~The district's unobligated general fund balance on the preceding June thirtieth~~
- 8           ~~is not in excess of thirty five percent of its actual expenditures, plus twenty~~
- 9           ~~thousand dollars.~~
- 10          3. ~~If the superintendent of public instruction determines that the district meets all the~~
- 11          ~~requirements of subsection 2, the superintendent shall:~~
- 12          a. ~~Determine the difference between the latest available statewide average~~
- 13          ~~taxable valuation per student and the average taxable valuation per student in~~
- 14          ~~the high school district;~~
- 15          b. ~~Multiply the result determined under subdivision a by the number of students~~
- 16          ~~in average daily membership in grades one through twelve in the high school~~
- 17          ~~district;~~
- 18          e. ~~Multiply the result determined under subdivision b by the number of general~~
- 19          ~~fund mills levied by the district in excess of one hundred fifty, provided that~~
- 20          ~~any mills levied by the district which are in excess of two hundred ten may not~~
- 21          ~~be used in this calculation; and~~
- 22          d. ~~Multiply the result determined under subdivision c by a factor calculated by~~
- 23          ~~the superintendent of public instruction to result in the expenditure, over the~~
- 24          ~~course of the biennium, of the full amount provided for the purpose of this~~
- 25          ~~section.~~
- 26          4. ~~The result of the calculations under this section is the supplemental payment to~~
- 27          ~~which a high school district is entitled, in addition to any other amount provided~~
- 28          ~~under chapter 15.1-27.:~~
- 29          a. Divide the imputed taxable valuation of the state by the total average daily
- 30          membership of all school districts in the state in order to determine the state
- 31          average imputed taxable valuation per student.

- 1            b. Divide the imputed taxable valuation of each school district by the district's  
2            total average daily membership in order to determine each district's average  
3            imputed taxable valuation per student.
- 4            2. If a school district's imputed taxable valuation per student is less than ninety  
5            percent of the statewide imputed taxable valuation per student, the superintendent  
6            of public instruction shall calculate the valuation deficiency by:
  - 7            a. Determining the difference between ninety percent of the state average  
8            imputed taxable valuation per student and the district's average imputed  
9            taxable valuation per student; and
  - 10           b. Multiplying that difference by the district's total average daily membership.
- 11           3. Except as provided in subsection 4, the equity payment to which a district is  
12           entitled under this section equals the district's valuation deficiency multiplied by the  
13           lesser of:
  - 14           a. The district's general fund mill levy; or
  - 15           b. One hundred eighty-five mills.
- 16           4. a. The equity payment to which a district is entitled may not exceed the district's  
17           taxable valuation multiplied by its general fund mill levy.
  - 18           b. If a district's general fund levy is less than one hundred eighty-five mills, the  
19           superintendent of public instruction shall subtract the district's general fund  
20           mill levy from one hundred eighty-five mills, multiply the result by the district's  
21           taxable valuation, and subtract that result from the equity payment to which  
22           the district is otherwise entitled.
  - 23           c. If a district's imputed taxable valuation per student is less than fifty percent of  
24           the statewide imputed taxable valuation per student, the payment to which the  
25           district is entitled under this section may not be less than twenty percent of  
26           the statewide imputed taxable valuation per student times the school district's  
27           average daily membership, multiplied by one hundred eighty-five mills.
- 28           5. In determining the amount to which a school district is entitled under this section,  
29           the superintendent of public instruction may not include any payments received by  
30           the district as a result of Public Law No. 81-874 [64 Stat. 1100; 20 U.S.C. 236  
31           et seq.] and may not include in the district's average daily membership students

1           who are dependents of members of the armed forces and students who are  
2           dependents of civilian employees of the department of defense.

3           6. For purposes of this section:

4           a. "General fund levy" includes a district's high school transportation levy and its  
5           high school tuition levy.

6           b. "Imputed taxable valuation" means the valuation of all taxable real property in  
7           the district plus an amount determined by dividing the district's mineral and  
8           tuition revenue by the district's general fund mill levy.

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

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

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

21           **15.1-27-15. ~~Per student payments~~— Isolated schools.**

22           1. a. ~~If an~~ An elementary school ~~is~~ is isolated if it has fewer than fifty students in  
23           average daily membership and if fifteen percent or more of its students would  
24           have to travel beyond a fifteen-mile [24.15-kilometer] radius from their  
25           residences in order to attend another school, ~~the weighting factor provided~~  
26           ~~under section 15.1-27-07 must be increased by twenty five percent.~~ If the  
27           school has fewer than fifteen students, the payment received must be for  
28           fifteen students.

29           b. For purposes of determining state aid, an elementary school that is isolated is  
30           presumed to have at least fifteen students in average daily membership.

1           2.    a.   ~~If a~~ A high school is isolated if it has fewer than thirty-five students in average  
2                                   daily membership and if fifteen percent or more of its students would have to  
3                                   travel beyond a ~~twenty-mile [32.2-kilometer]~~ fifteen-mile [24.1-kilometer]  
4                                   radius from their residences in order to attend another school,~~the weighting~~  
5                                   factor provided under section 15.1-27-06 must be increased by twenty-five  
6                                   percent. If the school has fewer than twenty students, the payment received  
7                                   must be for twenty students.

8                                   b.   For purposes of determining state aid, a high school that is isolated is  
9                                   presumed to have at least twenty students in average daily membership.

10           **SECTION 17. AMENDMENT.** Section 15.1-27-16 of the North Dakota Century Code is  
11 amended and reenacted as follows:

12           **15.1-27-16. Per student payments - Cooperating districts.** ~~If, on or after July 1,~~  
13 ~~1997,~~ any school district receiving payments under this chapter cooperates with another school  
14 district for the joint provision of educational services under a plan approved by the  
15 superintendent of public instruction, ~~each cooperating district is entitled~~ the superintendent of  
16 public instruction shall, notwithstanding the provisions of section 8 of this Act, create and assign  
17 a separate weighting factor that allows the cooperating districts to receive, for a period of four  
18 years, at least the same per student payment for each high school and elementary student as  
19 ~~the district received prior to initiation~~ a payment rate equivalent to that which each district would  
20 have received had the cooperative plan not taken effect. The superintendent of public  
21 instruction shall compute the separate weighting factor to four decimal places and that  
22 weighting factor is effective for the duration of the cooperative plan.

23           **SECTION 18. AMENDMENT.** Section 15.1-27-17 of the North Dakota Century Code is  
24 amended and reenacted as follows:

25           **15.1-27-17. Per student payments - Reorganization of school districts - Separate**  
26 **weighting factor.**

27           1.   ~~If any school district receiving per student payments calculated under section~~  
28                                   ~~15.1-27-06 reorganized with another school district under chapter 15.1-12 before~~  
29                                   ~~August 1, 1997, the school district resulting from the reorganization is entitled to~~  
30                                   ~~receive the same per student payments for each high school student as each~~

- 1           ~~separate school district received for each high school student prior to the~~  
2           ~~reorganization, for a period of four years.~~
- 3           2. ~~If any school district receiving per student payments calculated under this chapter~~  
4           ~~reorganizes with another school district under chapter 15.1-12 after July 31, 1997,~~  
5           ~~the school district resulting from the reorganization is entitled Notwithstanding the~~  
6           ~~provisions of section 8 of this Act, the superintendent of public instruction shall~~  
7           ~~create and assign a separate weighting factor to:~~
- 8           a. Any school district that reorganized on or before June 30, 2007, and which  
9           was receiving per student payments in accordance with section 15.1-27-17,  
10           as that section existed on June 30, 2007; and
- 11           b. Any school district that reorganizes on or after July 1, 2007.
- 12           2. a. The separate weighting factor must allow the reorganized school district to  
13           receive the same per student payments for each high school and elementary  
14           student as a payment rate equivalent to that which each separate school  
15           district would have received for each high school and elementary student  
16           prior to the reorganization, for a period of four years had the reorganization  
17           not taken place.
- 18           b. The separate weighting factor must be computed to four decimal places.
- 19           c. The provisions of this subsection are effective for a period of four years from  
20           the date of the reorganization.
- 21           3. ~~The weighting factor for each district will be adjusted proportionately over a period~~  
22           ~~of two years, following the period of time provided in subsection 1 or 2, until the~~  
23           ~~adjusted weighting factor equals the weighting factor for the combined enrollment~~  
24           ~~resulting from the reorganization. At the beginning of the fifth and at the beginning~~  
25           ~~of the sixth years after the date of the reorganization, the superintendent of public~~  
26           ~~instruction shall make proportionate adjustments in the assigned weighting factor~~  
27           ~~so that beginning with the seventh year after the date of the reorganization, the~~  
28           ~~weighting factor that will be applied to the reorganized district is that provided in~~  
29           ~~section 8 of this Act.~~
- 30           4. ~~Notwithstanding the provisions of any other law, no school district may receive less~~  
31           ~~in per student payments for the first year of its reorganization than the total amount~~

1           ~~that the districts participating in the reorganization received in per student~~  
2           ~~payments for the school year immediately preceding the reorganization. If less~~  
3           ~~than a whole school district participated in a reorganization, the superintendent of~~  
4           ~~public instruction shall prorate the payments to which the newly reorganized district~~  
5           ~~is entitled under this subsection.~~

6           **SECTION 19. AMENDMENT.** Section 15.1-27-18 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8           **15.1-27-18. Per student payments - Eligibility - ~~Minimum amounts.~~**

- 9           1. In order to be counted for the purpose of calculating per student payments, as  
10           provided for by this chapter, a high school student must be enrolled in at least four  
11           high school units. The units may include career and technical education courses  
12           offered in accordance with chapter 15-20.1 and courses that are approved by the  
13           superintendent of public instruction and offered by another high school district.
- 14           2. If a student is enrolled for graduation in a nonpublic school or if a student is taking  
15           fewer than four high school units and is enrolled in an approved alternative high  
16           school education program, the school district in which the student is enrolled is  
17           entitled to receive proportionate payments.
- 18           ~~3. Each high school district must receive at least as much in total per student~~  
19           ~~payments as it would have received if it had the highest number of students in the~~  
20           ~~next lower weighting category.~~

21           **SECTION 20. AMENDMENT.** Section 15.1-27-19 of the North Dakota Century Code is  
22 amended and reenacted as follows:

23           **15.1-27-19. Summer school courses and programs - ~~Proportionate payments~~**  
24 **Payments to school districts.**

- 25           1. ~~Each school district that offers summer school courses at the high school level is~~  
26           ~~entitled to receive proportionate payments provided each course offered Before a~~  
27           ~~weight may be assigned under section 7 of this Act for a student enrolled in a high~~  
28           ~~school summer course, the superintendent of public instruction shall verify that the~~  
29           ~~course satisfies requirements for graduation, comprises at least as many~~  
30           ~~clock-hours as courses offered during the regular school term, and complies with~~  
31           ~~rules adopted by the superintendent of public instruction.~~

- 1           2. ~~A school district that offers remedial~~ Before a weight may be assigned under  
2           section 7 of this Act for a student enrolled in an elementary summer school  
3           programs at the elementary level is entitled to receive proportionate payments  
4           provided the programs comply program, the superintendent of public instruction  
5           shall verify that the program complies with rules adopted by the superintendent of  
6           public instruction.
- 7           ~~3. The superintendent of public instruction may adopt rules regarding proportionate~~  
8           payments for remedial summer school programs at the elementary level and  
9           summer school courses at the high school level.
- 10          ~~4. Proportionate payments made under this section during a biennium for summer~~  
11          school courses or programs may not exceed one and one half percent of the total  
12          amount appropriated by the legislative assembly for state aid payments during the  
13          biennium, or eight million dollars, whichever is less. No more than seventy five  
14          percent of the amount made available under this subsection may be used to  
15          support summer school courses at the high school level and no more than  
16          twenty five percent of the amount made available under this subsection may be  
17          used to support remedial summer school programs at the elementary level.

18           **SECTION 21. AMENDMENT.** Section 15.1-27-20 of the North Dakota Century Code is  
19 amended and reenacted as follows:

20           **15.1-27-20. Per student State aid payments - Claim by school district - Appeal.**

- 21          ~~1. Upon the completion of student registration and in no event later than September~~  
22          tenth of each year, the business manager of a school district claiming payments  
23          from state funds under the provisions of this chapter shall file a claim in the form  
24          and manner prescribed by the superintendent of public instruction. The business  
25          manager must provide the number of registered high school and elementary  
26          school students for whom payments are claimed and any other information  
27          requested by the superintendent of public instruction.
- 28          ~~2. The superintendent of public instruction shall compute the per student payments~~  
29          on the basis of the previous year's average daily membership less the number of  
30          students attending school during the current school year in another district under  
31          the provisions of open enrollment or the current year's fall enrollment, whichever

- 1 provides the greater total payment. The superintendent shall make adjustments in  
2 the subsequent year according to a comparison between the average daily  
3 membership for the year for which the adjusted payment is being made and the  
4 year preceding the year for which the adjusted payment is being made, whichever  
5 is greater, for grade levels that existed in both years. The greater of the two  
6 preceding years' average daily membership must be used in computing any  
7 adjustment in a district's per student aid payments.
- 8 ~~3.~~ School districts educating children of agricultural migratory workers and school  
9 districts offering approved summer courses during the months of June, July, and  
10 August are not restricted to payments for a one hundred eighty day school term.
- 11 ~~4.~~ Upon termination of the school year, the business manager of each school district  
12 that has received payments from state funds under the provisions of this chapter  
13 shall file with the school board a verified statement of the name, residence, and  
14 membership of each student and the units of high school work taken by each  
15 enrolled student.
- 16 ~~5.~~ On or before June thirtieth of each year, the school board shall certify to the  
17 superintendent of public instruction, in the form and manner prescribed by the  
18 superintendent, the students in average daily membership for the recently  
19 completed school year. The superintendent shall notify the school district of any  
20 student average daily membership that is disallowed.
- 21 ~~6.~~ A Any school district claiming state aid payments under this chapter shall provide  
22 to the superintendent of public instruction, at the time and in the manner requested  
23 by the superintendent, all information necessary for the processing of the claim.
- 24 ~~2.~~ If the superintendent of public instruction denies a district's claim for state aid  
25 payments, in whole or in part, the district may appeal the determination of the  
26 superintendent by submitting a written appeal to filing a written notice with the  
27 superintendent of public instruction on or before September fifteenth of the year in  
28 which the, within thirty days from the date on which the district received the original  
29 determination is made. The superintendent of public instruction may modify the  
30 original determination if the evidence submitted by the district justifies a

1           modification. Upon appeal, or ~~in a case when no~~ if a timely appeal is not made,  
2           the determination of the superintendent ~~of public instruction~~ is final.

3           **SECTION 22.** A new section to chapter 15.1-27 of the North Dakota Century Code is  
4 created and enacted as follows:

5           **General fund levy - Impact on state aid.**

6           1. If in the first year of the 2007-09 biennium the general fund levy of a school district  
7 is less than one hundred fifty mills, the superintendent of public instruction shall:

8           a. Determine the difference in mills between the district's general fund levy and  
9 one hundred fifty;

10           b. Multiply the difference in mills determined under subsection 1 by the district's  
11 total taxable valuation; and

12           c. Subtract the dollar amount determined under subsection 2 from the total  
13 amount of state aid to which the district is otherwise entitled.

14           2. If in the second year of the 2007-09 biennium and each year thereafter, the  
15 general fund levy of a school district is less than one hundred fifty-five mills, the  
16 superintendent of public instruction shall:

17           a. Determine the difference in mills between the district's general fund levy and  
18 one hundred fifty-five;

19           b. Multiply the difference in mills determined under subsection 1 by the district's  
20 total taxable valuation; and

21           c. Subtract the dollar amount determined under subsection 2 from the total  
22 amount of state aid to which the district is otherwise entitled.

23           **SECTION 23.** A new section to chapter 15.1-27 of the North Dakota Century Code is  
24 created and enacted as follows:

25           **Taxable valuation - Impact on state aid.** If a school district's imputed taxable  
26 valuation per student is greater than one hundred fifty percent of the state average imputed  
27 taxable valuation per student, the superintendent of public instruction shall:

28           1. Determine the difference between the district's imputed taxable valuation per  
29 student and one hundred fifty percent of the state average imputed taxable  
30 valuation per student;

- 1           2. Multiply the dollar amount determined under subsection 1 by the district's average
- 2           daily membership;
- 3           3. Multiply the dollar amount determined under subsection 2 by one hundred
- 4           eighty-five mills;
- 5           4. Multiply the dollar amount determined under subsection 3 by a factor of 0.75; and
- 6           5. Subtract the dollar amount determined under subsection 4 from the total amount of
- 7           state aid to which the district is otherwise entitled.

8           **SECTION 24. AMENDMENT.** Section 15.1-27-35 of the North Dakota Century Code is  
9 amended and reenacted as follows:

10           **15.1-27-35. Average daily membership - Calculation.**

- 11           1. Average daily membership is calculated at the conclusion of the school year by
- 12           adding the total number of days that each student in a given ~~classroom~~ grade,
- 13           school, or school district is in attendance during a school calendar and the total
- 14           number of days that each student in a given ~~classroom~~ grade, school, or school
- 15           district is absent during a school calendar, and then dividing the sum by ~~one~~ the
- 16           greater of:
- 17           a. The school district's calendar; or
- 18           b. One hundred eighty.
- 19           2. For purposes of calculating average daily membership, all students are deemed to
- 20           be in attendance on:
- 21           ~~4.~~ a. The three holidays listed in subdivisions b through j of subsection 1 of section
- 22           15.1-06-02 and selected by the school board in consultation with district
- 23           teachers;
- 24           ~~2.~~ b. The two days set aside for professional development activities under section
- 25           15.1-06-04; and
- 26           ~~3.~~ c. The two full days, or portions thereof, during which parent-teacher
- 27           conferences are held or which are deemed by the board of the district to be
- 28           compensatory time for parent-teacher conferences held outside regular
- 29           school hours.
- 30           3. For purposes of calculating average daily membership:

- 1           a. A student enrolled full time in any grade from one through twelve may not  
2           exceed an average daily membership of 1.00. The membership may be  
3           prorated for a student who is enrolled less than full time.
- 4           b. During the 2007-08 school year, a student enrolled full time in an approved  
5           regular education kindergarten program may not exceed an average daily  
6           membership of 0.50. Beginning with the 2008-09 school year, a student  
7           enrolled full time in an approved regular education kindergarten program may  
8           not exceed an average daily membership of 1.00. The membership may be  
9           prorated for a student who is enrolled less than full time.
- 10          c. A student enrolled full time, as defined by the superintendent of public  
11          instruction, in an approved early childhood special education program may  
12          not exceed an average daily membership of 1.00. The membership may be  
13          prorated for a student who is enrolled less than full time.

14           **SECTION 25.** A new section to chapter 15.1-27 of the North Dakota Century Code is  
15 created and enacted as follows:

16           **Average daily membership - Reduction in grade levels.** If a school district offers  
17 fewer grade levels than the district offered the previous school year, the superintendent of  
18 public instruction shall determine the district's average daily membership using only those  
19 grade levels that the district offers during the current school year.

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

22           **Average daily membership - Dissolved school districts.** For purposes of  
23 determining state aid, the superintendent of public instruction shall amend the average daily  
24 membership of any school district that enrolls students who attended a dissolved school district  
25 during the school year prior to the dissolution.

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

28           **Payments to school districts - Unobligated general fund balance.** The  
29 superintendent of public instruction shall determine the amount of payments due a school  
30 district and shall subtract from that the amount by which the unobligated general fund balance  
31 of the district on the preceding June thirtieth is in excess of fifty percent of its actual

1 expenditures, plus twenty thousand dollars. Beginning July 1, 2008, the superintendent of  
2 public instruction shall determine the amount of payments due a school district and shall  
3 subtract from that the amount by which the unobligated general fund balance of the district on  
4 the preceding June thirtieth is in excess of forty-five percent of its actual expenditures, plus  
5 twenty thousand dollars.

6       **SECTION 28.** A new section to chapter 15.1-27 of the North Dakota Century Code is  
7 created and enacted as follows:

8       **Payments to school districts - Unobligated general fund balance - Exception.**

9 Notwithstanding the provisions of section 27 of this Act, the superintendent of public instruction  
10 may not include any distribution provided for in the final subsection of section 28 of chapter 167  
11 of the 2005 Session Laws, as amended in 2007 Senate Bill No. 2013 and approved by the  
12 sixtieth legislative assembly, in determining the unobligated general fund balance of a school  
13 district.

14       **SECTION 29. AMENDMENT.** Section 15.1-28-03 of the North Dakota Century Code is  
15 amended and reenacted as follows:

16       **15.1-28-03. State tuition fund - Apportionment - Payment.** On or before the third  
17 Monday in each January, February, March, April, August, September, October, November, and  
18 December, the office of management and budget shall certify to the superintendent of public  
19 instruction the amount of the state tuition fund. The superintendent shall ~~apportion the fund~~  
20 ~~among the school districts of the state in proportion to the number of school-age children~~  
21 ~~residing in each district, as shown by the latest enumeration provided for by law and pay the~~  
22 ~~amount apportioned to each school district. The superintendent shall make the payments~~  
23 ~~required by this section at the same time as the per student payments required~~ include the  
24 amount certified in determining the state aid payments to which each school district is entitled  
25 under chapter 15.1-27.

26       **SECTION 30. AMENDMENT.** Section 15.1-29-01 of the North Dakota Century Code is  
27 amended and reenacted as follows:

28       **15.1-29-01. Education of students in bordering states - Payment of tuition.**

29       1. ~~Students~~ A student may attend a school in a bordering state in accordance with  
30       section 15.1-29-02 ~~under the following circumstances~~ provided:



- 1 school board or by the student's parent to the state board of public school  
2 education. A decision by the state board is final.
- 3 3. ~~a. The superintendent of public instruction shall forward all state aid payments~~  
4 ~~for a~~ A student attending an out-of-state school ~~to~~ under this section is  
5 deemed to be enrolled in the student's school district of residence for  
6 purposes of determining average daily membership.
- 7 ~~b.~~ The student's district of residence may reduce any tuition payment it must  
8 make to an out-of-state school by an amount commensurate with the tuition  
9 costs the district would be entitled to receive as compensation for a student  
10 from the out-of-state district enrolled in its school.
- 11 4. Nothing in this section requires that a school district of residence provide student  
12 transportation or payments in lieu of transportation for students attending  
13 out-of-state schools.

14 **SECTION 31. AMENDMENT.** Section 15.1-29-02 of the North Dakota Century Code is  
15 amended and reenacted as follows:

16 **15.1-29-02. Education of students in bordering states - Contract - Tuition.**

- 17 1. A school district may contract with a school district in a bordering state for the  
18 education of students. A contract between school districts must provide for the  
19 payment of tuition at an agreed-upon amount.
- 20 2. ~~For purposes of per student payments and tuition apportionment payments, a~~ A  
21 student who attends school in a bordering state under a contract provided for by  
22 this section is deemed to be in attendance in the student's school district of  
23 residence. The student's school district of residence is liable to the school district  
24 of the bordering state for payments as provided in the contract.
- 25 3. A school district in this state may not agree to accept ~~students~~ a student from a  
26 bordering state unless the tuition payable equals or exceeds the ~~per student~~  
27 ~~payment plus the tuition apportionment payment~~ amount of state aid that the  
28 district would have received from this state for a student in the same grade if ~~its~~  
29 that student had been attending school in the bordering state.

30 **SECTION 32. AMENDMENT.** Section 15.1-29-12 of the North Dakota Century Code is  
31 amended and reenacted as follows:

1           **15.1-29-12. Tuition payments - Determination.**

2           1.    Except as provided in section 15.1-29-13, a school district sending a student to  
3           another district for purposes of education shall pay the full cost of education  
4           incurred by the admitting district.

5           2.    a.    The admitting district shall determine the cost of education per student for its  
6           kindergarten, elementary, and high school students on the basis of its  
7           average daily membership and those expenditures permitted in determining  
8           the cost of education per student in section 15.1-27-03.

9           b.    To the cost of education per student, the admitting district shall add the latest  
10          available statewide average per student cost for extracurricular activities and  
11          the state average capital outlay per student. The state average capital outlay  
12          per student is determined by dividing the total of all school districts' annual  
13          expenditures for sinking and interest funds, tax receipts to the building funds,  
14          and general fund expenditures for capital outlay by the average daily  
15          membership of the state.

16          c.    The admitting district shall subtract the following from the amount arrived at  
17          under subdivision b:

18           (1)    The ~~weighted~~ per student payment ~~received by the admitting district,~~  
19           ~~less the average amount per North Dakota resident student enrolled in~~  
20           ~~the school district realized from the deductions applied under section~~  
21           ~~15.1-27-06~~ multiplied by the admitting district's school size weighting  
22           factor; and

23           (2)    Any credit for taxes paid to the admitting district by the student's parent.

24          d.    The amount remaining is the full cost of education incurred by the admitting  
25          district and the tuition amount payable for the individual student. This chapter  
26          does not affect the right of a school board to charge and collect tuition from  
27          students who are not residents of this state, in accordance with section  
28          15.1-29-02.

29           **SECTION 33. AMENDMENT.** Section 15.1-29-14 of the North Dakota Century Code is  
30          amended and reenacted as follows:

1           **15.1-29-14. Student placement for noneducational purposes - Residency**  
2 **determination - Payment of tuition and tutoring charges.**

- 3           1. a. Except as provided in subdivision b, for purposes of applying this chapter, a  
4           student's school district of residence is the district in which the student's  
5           custodial parent or legal guardian resides:
- 6                   (1) At the time that a state court, tribal court, juvenile supervisor, or the  
7                   division of juvenile services issues an order requiring the student to  
8                   stay for a prescribed period at a state-licensed foster home or at a  
9                   state-licensed child care home or facility;
- 10                  (2) At the time a county or state social service agency places the student,  
11                  with the consent of the student's parent or legal guardian, at a  
12                  state-licensed foster home or at a state-licensed child care home or  
13                  facility;
- 14                  (3) At the time the student is initially placed in a state-operated institution,  
15                  even if the student is later placed at a state-licensed foster home or at a  
16                  state-licensed child care home or facility; or
- 17                  (4) At the time the student is placed voluntarily, by a parent or legal  
18                  guardian, in a state-operated institution or in a state-licensed child care  
19                  home, facility, or program, located outside the student's school district  
20                  of residence, including those defined in sections 25-01.2-01 and  
21                  50-11-00.1.
- 22           b. A determination regarding the student's school district of residence made  
23           under subdivision a is valid until the September fifteenth following the  
24           determination. On that date and each September fifteenth thereafter, the  
25           placing agency or the entity funding the student's placement shall determine  
26           the district in which the student's custodial parent or legal guardian resides  
27           and shall notify the district that it is deemed to be the student's district of  
28           residence for purposes of this chapter. If, however, the student is placed in  
29           accordance with paragraph 4 of subdivision a and the placement is privately  
30           funded, the administrator of the facility or program in which the student is

- 1 placed shall determine the student's school district of residence and provide  
2 the notification required by this subdivision.
- 3 2. The student's school district of residence is obligated to pay:
- 4 a. All charges for tuition upon claim of the admitting district; and  
5 b. All charges for tutoring services upon claim of an admitting facility, provided  
6 that the tutoring services are delivered by an individual who is licensed to  
7 teach by the education standards and practices board or approved to teach  
8 by the education standards and practices board.
- 9 3. The state shall pay the tuition and tutoring charges under subsection 2 from funds  
10 appropriated by the legislative assembly for state aid to schools if, on the  
11 September fifteenth after a student placement is made as provided for under  
12 subsection 1:
- 13 a. The student's custodial parent or legal guardian establishes residency outside  
14 this state;  
15 b. A court orders a termination of parental rights with respect to the student's  
16 parents;  
17 c. The student no longer has a custodial parent; or  
18 d. The superintendent of public instruction has determined that all reasonable  
19 efforts to locate a parent or legal guardian have been unsuccessful.
- 20 4. If the student is voluntarily admitted to a state-licensed child care home or facility,  
21 or to a state-operated institution, the student's parent or, if one has been  
22 appointed, the student's legal guardian may appeal a determination under section  
23 15.1-29-05 regarding the payment of tuition by filing a petition with the county  
24 superintendent of schools. Within fifteen days of receiving the petition, the  
25 three-member committee established under section 15.1-29-06 shall consult with  
26 the boards of the affected school districts and with the student's parent or legal  
27 guardian and render a decision regarding responsibility for the payment of tuition  
28 charges.
- 29 5. If the student's district of residence does not pay the required tuition, the admitting  
30 district or facility shall notify the superintendent of public instruction. Upon  
31 verification that tuition payments and tutoring charges are due and unpaid, the

- 1 superintendent shall withhold an amount equal to the unpaid tuition and tutoring  
2 charges from state aid otherwise payable to the student's school district of  
3 residence until the tuition and tutoring charges that are due ~~has~~ have been fully  
4 paid.
- 5 6. An amount equal to the state average per student elementary or high school cost,  
6 depending on the student's grade of enrollment, is payable to the admitting district  
7 or facility as part of the cost of educating the student for the school year. The  
8 payment may not exceed the actual per student cost incurred by the admitting  
9 district or facility. The remainder of the actual cost of educating the student not  
10 covered by other payments or credits must be paid by the state, within the limits of  
11 legislative appropriations, from funds appropriated for the payment of special  
12 education contract charges in the case of a student with disabilities or from state  
13 aid payments to schools in all other cases.
- 14 7. If a student with disabilities placed in accordance with this section reaches age  
15 eighteen and continues to receive special education and related services, the  
16 student's school district of residence is deemed to be the same as that of the  
17 student's custodial parent until the special education services are concluded. The  
18 obligations of the student's school district of residence as provided in subsection 2  
19 and the obligations of the state as provided in subsection 3 are applicable to all  
20 students described in this subsection.
- 21 8. a. The placing agency or entity funding the student's placement shall provide  
22 written or electronic notice regarding an initial placement and all subsequent  
23 placements of a student to the superintendent of the student's school district  
24 of residence and to the superintendent of the admitting district:
- 25 (1) Within five working days after a placement is made under court order;  
26 (2) Within five working days after an emergency placement is made; or  
27 (3) At least ten working days prior to any other placement.
- 28 b. If, however, the student's parent or legal guardian voluntarily places the  
29 student in a state-operated institution or in a state-licensed child care home,  
30 facility, or program, located outside the student's school district of residence,  
31 including those defined in sections 25-01.2-01 and 50-11-00.1, and if the

- 1 placement is privately funded, the administrator of the facility or program in  
2 which the student is placed shall determine the student's school district of  
3 residence and provide the notification required by this section.
- 4 c. The notice must include any information requested by the superintendent of  
5 public instruction for purposes of determining payment responsibility.
- 6 d. The placing agency shall afford the student's school district of residence  
7 reasonable opportunity to participate in permanency planning for the student.
- 8 9. Notwithstanding this section, educational services provided to a student by the  
9 youth correctional center are not subject to the payment of tuition and tutoring  
10 charges by either the student's school district of residence or the superintendent of  
11 public instruction.
- 12 10. For purposes of this section, "custodial parent" means the parent who has been  
13 awarded sole legal and physical custody of the student in a legal proceeding or, if  
14 there is currently no operative custody order, the parent with whom the student  
15 resides. If the student resides with both parents, then both are custodial parents.

16 **SECTION 34. AMENDMENT.** Section 15.1-29-15 of the North Dakota Century Code is  
17 amended and reenacted as follows:

18 **15.1-29-15. Levy for tuition payments.** If the board of a school district approves  
19 tuition payments for students in grades seven through twelve or if the board is required to make  
20 tuition or tutoring payments under this chapter, the board may levy an amount sufficient to meet  
21 such payments, pursuant to subdivision c of subsection 1 of section 57-15-14.2.

22 **SECTION 35. AMENDMENT.** Section 15.1-31-03 of the North Dakota Century Code is  
23 amended and reenacted as follows:

24 **15.1-31-03. Open enrollment - ~~Per student State aid~~ ~~Tuition apportionment.~~**

- 25 1. Once a student is enrolled in an admitting district, the student must remain enrolled  
26 in the admitting district until:
- 27 a. The student graduates;
- 28 b. The student relocates to another district;
- 29 c. The student's parent applies for enrollment in another school district; or
- 30 d. The student's parent notifies the student's school district of residence that the  
31 student will attend school in the school district of residence the following year.

- 1           2.   ~~Payment for per student aid must be made to the admitting district in accordance~~  
2                   ~~with chapter 15.1-27.~~
- 3           ~~3.   For purposes of tuition apportionment payments, a student whose application is~~  
4                   ~~approved under this section is considered a resident of the admitting district.~~
- 5           4.   Except as specifically provided in this chapter, chapter 15.1-29 does not apply to  
6                   students involved in open enrollment.

7           **SECTION 36. AMENDMENT.** Section 15.1-31-04 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9           **15.1-31-04. Open enrollment - Students with disabilities - Additional costs.** If an  
10 application under this chapter is approved for a student with a disability, the board of the  
11 student's school district of residence shall pay to the admitting district the costs incurred by the  
12 admitting district in providing special education and related services to the student ~~up to a~~  
13 ~~maximum each school year of two and one-half times the state average per student elementary~~  
14 ~~or high school cost, depending on the student's enrollment level, plus twenty percent of all~~  
15 ~~remaining costs. The superintendent of public instruction shall reimburse the admitting district~~  
16 ~~eighty percent of the remainder of the cost of educating the student with disabilities within the~~  
17 ~~limits of legislative appropriations for that purpose. The superintendent of public instruction~~  
18 shall reimburse the student's school district of residence for all excess costs, as defined in  
19 section 15.1-32-18.

20           **SECTION 37. AMENDMENT.** Section 15.1-31-07 of the North Dakota Century Code is  
21 amended and reenacted as follows:

22           **15.1-31-07. Students not subject to this chapter.** If a student, as a result of a school  
23 district dissolution or reorganization, resides in a district other than the one the student chooses  
24 to attend at the time of the dissolution or reorganization, the student is not subject to this  
25 chapter and may attend school in the chosen school district. ~~Notwithstanding section~~  
26 ~~15.1-28-03, the superintendent of public instruction shall forward payments from the state~~  
27 ~~tuition fund made on behalf of the student to the student's chosen school district. The student~~  
28 ~~may not be considered a student in average daily membership in the student's school district of~~  
29 ~~residence for purposes of section 15.1-31-02.~~

30           **SECTION 38. AMENDMENT.** Section 15.1-32-08 of the North Dakota Century Code is  
31 amended and reenacted as follows:

1           **15.1-32-08. School districts - Provision of special education.** Each school district  
2 shall provide special education, ~~singly or jointly with other districts,~~ and related services as a  
3 single district, as a member of a multidistrict special education unit in accordance with this  
4 chapter 15.1-33, or as a participating district in an educational association approved by the  
5 superintendent of public instruction under section 15.1-07-28. Each school district and entity  
6 providing special education shall cooperate with the director of special education and with the  
7 institutions of this state in the provision of special education.

8           **SECTION 39. AMENDMENT.** Section 15.1-32-14 of the North Dakota Century Code is  
9 amended and reenacted as follows:

10           **15.1-32-14. Special education per student payments students - Contracts for**  
11 **placement.**

12           1. ~~If a student with disabilities receives special education services, the superintendent~~  
13 ~~of public instruction shall forward any per student payments, payable on behalf of~~  
14 ~~that student, directly to the school district in which the student receives such~~  
15 ~~services.~~

16           2. ~~If a student with disabilities attends a special education summer program required~~  
17 ~~by the student's individualized education program or services plan and approved~~  
18 ~~by the superintendent of public instruction, the superintendent of public instruction~~  
19 ~~shall forward any additional prorated per student payments, payable on behalf of~~  
20 ~~the student, directly to the school district in which the student receives such~~  
21 ~~services.~~

22           3. ~~If a student who is enrolled in a nonpublic school receives special education~~  
23 ~~services in a public school, the superintendent of public instruction shall forward a~~  
24 ~~proportionate per student payment to the school district in which the student~~  
25 ~~receives the services.~~

26           4. a. If in the opinion of an individualized education program team or a services  
27 plan team a student is unable to attend a public school in the special  
28 education unit to which the student's school district of residence belongs, the  
29 student's school district of residence shall contract with another public school  
30 that:

31           (4) a. Does not belong to the same special education unit;

- 1       ~~(2)~~    b.   Is located in this state;
- 2       ~~(3)~~    c.   Is willing to admit the student; and
- 3       ~~(4)~~    d.   Is able to provide appropriate services to the student.
- 4       ~~b.~~   2.   The superintendent of public instruction shall approve in advance the terms of the
- 5                   contract and the services to be provided by the admitting school.
- 6       ~~e.~~   3.   The contract must provide that the student's school district of residence ~~agrees to~~
- 7                   ~~pay to the district in which the student receives services, as part of~~ is liable for the
- 8                   cost of educating the student ~~for the school year, an amount equal to two and~~
- 9                   ~~one-half times the state average per student elementary or high school cost,~~
- 10                  ~~depending upon the student's level of enrollment, plus twenty percent of all~~
- 11                  ~~remaining costs. The amount paid may not exceed the actual per student cost~~
- 12                  ~~incurred by the admitting school, less any per student payment received on behalf~~
- 13                  ~~of the student under this section.~~
- 14                  ~~e.~~    ~~The liability of the student's school district of residence must be reduced~~
- 15                               ~~proportionately if the student attends the admitting school for less than an~~
- 16                               ~~entire school year.~~
- 17       ~~e.~~   4.   Upon being notified by the district in which the student receives services that
- 18                   ~~tuition payments provided for by this section are due and unpaid~~ the student's
- 19                   school district of residence has not paid for services that were provided to the
- 20                   student, the superintendent of public instruction, after verification, shall withhold all
- 21                   state aid payments to which the student's school district of residence is entitled,
- 22                   until the ~~tuition due has been paid.~~
- 23                  ~~f.~~    ~~The superintendent of public instruction shall provide to the school district in~~
- 24                               ~~which the student receives services, within the limits of legislative~~
- 25                               ~~appropriations, an amount equal to eighty percent of the remainder of the~~
- 26                               ~~actual cost of educating the student with disabilities not covered by other~~
- 27                               ~~payments or credits~~ required payments have been made.

28                **SECTION 40. AMENDMENT.** Section 15.1-32-15 of the North Dakota Century Code is

29                amended and reenacted as follows:

30                **15.1-32-15. Student with disabilities - Attendance at private institution or**

31                **out-of-state public school.**

- 1           1. If in the opinion of an individualized education program team or an education  
2           services team a student is unable to attend a public school in the student's school  
3           district of residence because of a physical disability, a mental disability, or a  
4           learning disability, and if no public school in the state will accept the student and  
5           provide the necessary services, the student's school district of residence shall  
6           contract with:
  - 7           a. A private, accredited, nonsectarian, nonprofit institution that is located within  
8           or outside of this state and which has the proper facilities for the education of  
9           the student; or
  - 10           b. A public school located outside of this state that has proper facilities for the  
11           education of the student.
- 12           2. The superintendent of public instruction shall approve in advance the terms of the  
13           contract and the services to be provided by the admitting institution or school.
- 14           3. The contract must provide that the student's school district of residence ~~shall pay~~  
15           ~~to the institution or school, as part of~~ is liable for the cost of educating the student;  
16           ~~an amount for the school year equal to two and one-half times the state average~~  
17           ~~per student elementary or high school cost, depending upon the student's level of~~  
18           ~~enrollment, plus twenty percent of all remaining costs.~~
- 19           ~~4. The amount paid may not exceed the actual per student cost incurred by the~~  
20           ~~institution or school.~~
- 21           ~~5. The superintendent of public instruction shall provide to the student's school district~~  
22           ~~of residence, within the limits of legislative appropriations, an amount equal to~~  
23           ~~eighty percent of the remainder of the actual cost of educating the student with~~  
24           ~~disabilities not covered by other payments or credits.~~
- 25           ~~6. The school district of residence is entitled to the per student payment for a student~~  
26           ~~who receives services under this section.~~
- 27           4. A student who receives services under this section is deemed to be enrolled in the  
28           student's school district of residence for purposes of determining average daily  
29           membership.

30           **SECTION 41. AMENDMENT.** Section 15.1-32-16 of the North Dakota Century Code is  
31           amended and reenacted as follows:

1           **15.1-32-16. Transportation services –State reimbursement.** If a student's  
2 individualized education program or services plan requires the provision of transportation  
3 services, the student's school district of residence shall provide the services by any reasonably  
4 prudent means, including a regularly scheduled schoolbus, public transit, commercial  
5 transportation, chartered or other contracted transportation, and transportation provided by the  
6 student's parent or other responsible party.

7           **SECTION 42. AMENDMENT.** Section 15.1-32-18 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9           **15.1-32-18. Cost - Liability of school district for special education.** ~~If the cost of~~  
10 ~~providing special education and related services to a student with disabilities, as determined by~~  
11 ~~the superintendent of public instruction, exceeds the reimbursement provided by the state, the~~  
12 ~~student's school district of residence is liable to pay for each such student an amount over the~~  
13 ~~state reimbursement up to a maximum each school year of two and one half times the state~~  
14 ~~average per student elementary cost of education or high school cost of education, depending~~  
15 ~~on the student's level of enrollment, plus twenty percent of all remaining costs. The two and~~  
16 ~~one half times amount includes the amount that the school district is required to pay under~~  
17 ~~section 15.1-32-14. The state is liable for eighty percent of the remaining cost of education and~~  
18 ~~related services for each such student with disabilities within the limits of legislative~~  
19 ~~appropriations.~~

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

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

- 1           3. "Excess costs" are those that exceed four and one-half times the state average  
2                   cost of education per student and which are incurred by the special education  
3                   students identified in subsection 1.
- 4           4. All costs of providing special education and related services to those students  
5                   identified in subsection 1, other than excess costs reimbursed by the state, are the  
6                   responsibility of the student's school district of residence.

7           **SECTION 43. AMENDMENT.** Section 15.1-33-02 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9           **15.1-33-02. Multidistrict special education units - School district participation.** A  
10 school district may join a multidistrict special education unit or together with other school  
11 districts form a multidistrict special education unit for purposes of planning and delivering  
12 special education and related services. ~~Each school district shall participate in a multidistrict~~  
13 ~~special education unit or have on file with the superintendent of public instruction a plan for~~  
14 ~~providing special education and related services as a single district.~~ If a school district wishes  
15 to join a multidistrict special education unit from which it has been excluded, the school district  
16 may petition the superintendent of public instruction. A school district may appeal a decision of  
17 the superintendent under this section to the state board of public school education.

18           **SECTION 44. AMENDMENT.** Section 15.1-36-02 of the North Dakota Century Code is  
19 amended and reenacted as follows:

20           **15.1-36-02. School construction projects - Loans.**

- 21           1. The board of university and school lands may authorize the use of moneys in the  
22 coal development trust fund established pursuant to section 21 of article X of the  
23 Constitution of North Dakota and subsection 1 of section 57-62-02 to provide  
24 school construction loans, as described in this chapter. The outstanding principal  
25 balance of loans under this chapter may not exceed ~~forty~~ fifty million dollars. The  
26 board may adopt policies and rules governing school construction loans.
- 27           2. In order to be eligible for a loan under this section, the board of a school district  
28 shall:
- 29           a. Propose a construction project with a cost of at least one million dollars and  
30                   an expected utilization of at least thirty years;

- 1            b. Obtain the approval of the superintendent of public instruction for ~~its~~ the  
2            construction project under section 15.1-36-01; and
- 3            ~~b.~~ c. Submit to the superintendent of public instruction an application containing all  
4            information deemed necessary by the superintendent, including potential  
5            alternative sources or methods of financing the construction project.
- 6            3. The superintendent of public instruction shall give priority to any district that meets  
7            the requirements for receipt of an equity payment under section 15.1-27-11.
- 8            4. If an eligible school district's imputed taxable valuation per student is less than  
9            eighty percent of the state average imputed valuation per student, the district is  
10           entitled to receive:
- 11           a. A school construction loan equal to the lesser of eight million dollars or eighty  
12           percent of the actual project cost;
- 13           b. An interest rate discount equal to at least fifty but not more than two hundred  
14           basis points below the prevailing tax-free bond rates; and
- 15           c. A term of repayment that may extend up to twenty years.
- 16           5. If an eligible school district's imputed taxable valuation per student is equal to at  
17           least eighty percent but less than ninety percent of the state average imputed  
18           taxable valuation per student, the district is entitled to receive:
- 19           a. A school construction loan equal to the lesser of seven million dollars or  
20           seventy percent of the actual project cost;
- 21           b. An interest rate buydown equal to at least fifty but not more than two hundred  
22           basis points below the prevailing tax-free bond rates; and
- 23           c. A term of repayment that may extend up to twenty years.
- 24           6. If an eligible school district's imputed taxable valuation per student is equal to at  
25           least ninety percent of the state average imputed taxable valuation per student, the  
26           district is entitled to receive:
- 27           a. A school construction loan equal to the lesser of two and one-half million  
28           dollars or thirty percent of the actual project cost;
- 29           b. An interest rate discount equal to at least fifty but not more than two hundred  
30           basis points below the prevailing tax-free bond rates; and
- 31           c. A term of repayment that may extend up to twenty years.

- 1           7. The board of a school district may submit its loan application to the superintendent  
2           of public instruction before or after receiving authorization of a bond issue in  
3           accordance with chapter 21-03. If the vote to authorize a bond issue precedes the  
4           application for a loan, the application must be acted upon by the superintendent  
5           expeditiously but no later than one hundred eighty days from the date it is received  
6           by the superintendent.
- 7           ~~4.~~ 8. The superintendent of public instruction shall consider each loan application in the  
8           order it received approval under section 15.1-36-01.
- 9           ~~5.~~ 9. If the superintendent of public instruction approves the loan, the superintendent  
10          may determine the loan amount. ~~In determining the amount of a loan, the~~  
11          ~~superintendent shall take into account the cost of the construction project and the~~  
12          ~~fiscal capacity of the school district.~~
- 13          ~~6.~~ If the superintendent of public instruction approves the loan, the superintendent  
14          ~~may determine the interest rate to be paid. The interest rate on a loan under this~~  
15          ~~section may not exceed a rate of two percent below the net interest rate on~~  
16          ~~comparable tax exempt obligations as determined on the date the application is~~  
17          ~~approved by the superintendent pursuant to section 15.1-36-01. The interest rate~~  
18          ~~may not exceed six percent.~~
- 19          ~~7.~~ A school district may not receive a loan under this section unless the  
20          ~~superintendent of public instruction determines that the district has an existing~~  
21          ~~indebtedness equal to at least fifteen percent of its taxable valuation. In~~  
22          ~~determining a school district's existing indebtedness, the superintendent shall~~  
23          ~~include outstanding indebtedness authorized by an election under section~~  
24          ~~21-03-07 but not issued and indebtedness authorized to be paid with dedicated tax~~  
25          ~~levies under subsection 7 of section 21-03-07 but not issued, the term of the loan,~~  
26          ~~and the interest rate, in accordance with the requirements of this section.~~
- 27          ~~8.~~ 10. The superintendent of public instruction may adopt rules governing school  
28          construction loans.
- 29          ~~9.~~ 11. For purposes of this section, a construction project means the purchase, lease,  
30          erection, or improvement of any structure or facility by a school board, provided the

1            acquisition or activity is within a school board's authority ~~and further provided that~~  
2            ~~the acquisition or activity is estimated to cost in excess of fifty thousand dollars.~~

3            **SECTION 45.** A new section to chapter 15.1-36 of the North Dakota Century Code is  
4 created and enacted as follows:

5            **School construction projects - Reorganized districts - Interest subsidy.**

6            1. If under chapter 15.1-12 two or more school districts prepare a reorganization plan,  
7            agree in that plan to pursue a construction project, and obtain the approval of the  
8            superintendent of public instruction in accordance with this chapter, the newly  
9            reorganized district is eligible to receive up to three hundred basis points of interest  
10           rate buydown on the lesser of:

11           a. Thirteen million five hundred thousand dollars; or

12           b. A percentage of the total project cost determined by:

13           (1) Allowing five percent for each school district that participated in the  
14           reorganization;

15           (2) Allowing five percent for each one hundred-square-mile  
16           [259-square-kilometer] increment that is added to the square miles  
17           [kilometers] of the geographically largest district participating in the  
18           reorganization;

19           (3) Allowing five percent for every ten students added to the enrollment of  
20           the district having the greatest number of enrolled students and  
21           participating in the reorganization; and

22           (4) Capping the allowable percentage at ninety percent of the total project  
23           cost.

24           2. In addition to the requirements of subsection 1, the percentage of cost subsidy  
25           determined under subdivision b of subsection 1 must equal at least twenty percent  
26           of the total project cost.

27           **SECTION 46.** A new section to chapter 15.1-38 of the North Dakota Century Code is  
28 created and enacted as follows:

29           **English language learner - Definition.** English language learner means a student  
30 who:

31           1. Is at least five years of age but has not reached the age of twenty-two;

- 1           2. Is enrolled in a school district in this state;
- 2           3. Has a primary language other than English or comes from an environment in which
- 3           a language other than English significantly impacts the individual's level of English
- 4           language proficiency; and
- 5           4. Has difficulty speaking, reading, writing, and understanding English, as evidenced
- 6           by a language proficiency test approved by the superintendent of public instruction
- 7           and aligned to the state English language proficiency standards and the state
- 8           language proficiency test.

9           **SECTION 47.** A new section to chapter 15.1-38 of the North Dakota Century Code is  
10 created and enacted as follows:

11           **New immigrant English language learner - Definition.** A new immigrant English  
12 language learner is an English language learner who was not born in the United States and has  
13 not attended school in the United States for more than three school years or the monthly  
14 equivalent of three school years.

15           **SECTION 48. AMENDMENT.** Section 57-15-14 of the North Dakota Century Code is  
16 amended and reenacted as follows:

17           **57-15-14. Tax levy limitations in school districts.** The aggregate amount levied  
18 each year for the purposes listed in section 57-15-14.2 by any school district, except the Fargo  
19 school district, may not exceed the amount in dollars which the school district levied for the  
20 prior school year plus eighteen percent up to a general fund levy of one hundred eighty-five  
21 mills on the dollar of the taxable valuation of the district, except that:

- 22           1. In any school district having a total population in excess of four thousand  
23           according to the last federal decennial census:
  - 24           a. There may be levied any specific number of mills that upon resolution of the  
25           school board has been submitted to and approved by a majority of the  
26           qualified electors voting upon the question at any regular or special school  
27           district election.
  - 28           b. There is no limitation upon the taxes which may be levied if upon resolution of  
29           the school board of any such district the removal of the mill levy limitation has  
30           been submitted to and approved by a majority of the qualified electors voting  
31           at any regular or special election upon such question.

1           2. In any school district having a total population of less than four thousand, there  
2           may be levied any specific number of mills that upon resolution of the school board  
3           has been approved by fifty-five percent of the qualified electors voting upon the  
4           question at any regular or special school election.

5           ~~3. In any school district in which the total assessed valuation of property has  
6           increased twenty percent or more over the prior year and in which as a result of  
7           that increase the school district is entitled to less in state aid payments provided in  
8           chapter 15.1-27 because of the deduction required in section 15.1-27-05, there  
9           may be levied any specific number of mills more in dollars than was levied in the  
10          prior year up to a general fund levy of one hundred eighty five mills on the dollar of  
11          the taxable valuation of the school district. The additional levy authorized by this  
12          subsection may be levied for not more than two years because of any twenty  
13          percent or greater annual increase in assessed valuation. The total amount of  
14          revenue generated in excess of the eighteen percent increase which is otherwise  
15          permitted by this section may not exceed the amount of state aid payments lost as  
16          a result of applying the deduction provided in section 15.1-27-05 to the increased  
17          assessed valuation of the school district in a one-year period.~~

18 The question of authorizing or discontinuing such specific number of mills authority or unlimited  
19 taxing authority in any school district must be submitted to the qualified electors at the next  
20 regular election upon resolution of the school board or upon the filing with the school board of a  
21 petition containing the signatures of qualified electors of the district equal in number to twenty  
22 percent of the number of persons enumerated in the school census for that district for the most  
23 recent year such census was taken, unless such census is greater than four thousand in which  
24 case only fifteen percent of the number of persons enumerated in the school census is  
25 required. However, not fewer than twenty-five signatures are required unless the district has  
26 fewer than twenty-five qualified electors, in which case the petition must be signed by not less  
27 than twenty-five percent of the qualified electors of the district. In those districts with fewer than  
28 twenty-five qualified electors, the number of qualified electors in the district must be determined  
29 by the county superintendent for such county in which such school is located. However, the  
30 approval of discontinuing either such authority does not affect the tax levy in the calendar year  
31 in which the election is held. The election must be held in the same manner and subject to the

1 same conditions as provided in this section for the first election upon the question of authorizing  
2 the mill levy.

3 **SECTION 49. NORTH DAKOTA COMMISSION ON EDUCATION IMPROVEMENT -**  
4 **MEMBERSHIP - DUTIES - REPORT TO LEGISLATIVE COUNCIL - REIMBURSEMENT FOR**  
5 **EXPENSES.**

6 1. The North Dakota commission on education improvement consists of:

- 7 a. (1) The governor or an individual designated by the governor, who shall  
8 serve as the chairman;
- 9 (2) One individual, appointed by the governor, who is employed as the  
10 superintendent of a high school district having more than one thousand  
11 students in average daily membership;
- 12 (3) One individual, appointed by the governor, who is employed as the  
13 superintendent of a high school district having more than two hundred  
14 twenty but fewer than one thousand students in average daily  
15 membership;
- 16 (4) One individual, appointed by the governor, who is employed as the  
17 superintendent of a high school district having fewer than two hundred  
18 twenty students in average daily membership;
- 19 (5) One individual, appointed by the governor, who is employed as a  
20 school district business manager;
- 21 (6) The chairman of the senate education committee or the chairman's  
22 designee;
- 23 (7) The chairman of the house education committee or the chairman's  
24 designee;
- 25 (8) The senate minority leader or the leader's designee;
- 26 (9) One legislator appointed by the chairman of the legislative council; and  
27 (10) The superintendent of public instruction or an assistant superintendent  
28 designated by the superintendent of public instruction; and
- 29 b. One nonvoting member representing the North Dakota council of educational  
30 leaders, one nonvoting member representing the North Dakota education

- 1                    association, and one nonvoting member representing the North Dakota  
2                    school boards association.
- 3            2.    The commission shall establish its own duties and rules of operation and  
4                    procedure, including rules relating to appointments, terms of office, vacancies,  
5                    quorums, and meetings, provided that the duties and the rules do not conflict with  
6                    any provisions of this section.
- 7            3.    The members of the commission are entitled to reimbursement for actual and  
8                    necessary expenses incurred in the same manner as state officials. The  
9                    superintendent of public instruction shall use up to \$40,000 from moneys  
10                    appropriated in the grants - state school aid line item in section 3 of Senate Bill  
11                    No. 2013, as approved by the sixtieth legislative assembly, to provide the  
12                    reimbursements.
- 13           4.    The commission shall examine the current system of delivering and financing  
14                    public elementary and secondary education and shall develop recommendations  
15                    addressing educational adequacy, the equitable distribution of state education  
16                    funds, the allocation of funding responsibility between federal, state, and local  
17                    sources, and any other matters that could result in the improvement of elementary  
18                    and secondary education in the state.
- 19           5.    The commission shall provide periodic reports to the governor and to the  
20                    legislative council.

21            **SECTION 50. USE OF NEW MONEY - TEACHER COMPENSATION INCREASES -**  
22            **REPORTS TO LEGISLATIVE COUNCIL.**

- 23           1.    During the 2007-09 biennium, the board of each school district shall use an  
24                    amount equal to at least seventy percent of all new money received by the district  
25                    for per student payments to increase the compensation paid to teachers and to  
26                    provide compensation to teachers who begin employment with the district on or  
27                    after July 1, 2007.
- 28           2.    For purposes of this section, the superintendent of public instruction shall calculate  
29                    the amount of new money received by a district during the 2007-09 biennium by:  
30                    a.    Determining the total amount of state dollars received by each district during  
31                    the 2005-07 biennium as per student payments, tuition apportionment

- 1                    payments, special education per student payments, and English language  
2                    learner payments;
- 3                    b.    Determining the total amount of state dollars received by each district during  
4                    the 2007-09 biennium as per student payments, provided that neither equity  
5                    payments under section 15.1-27-11 nor contingency distributions are to be  
6                    included in the total; and
- 7                    c.    Subtracting the amount arrived at under subdivision a from the amount  
8                    arrived at under subdivision b.
- 9                    3.    School districts providing educational services under a cooperative agreement  
10                   approved by the superintendent of public instruction must, for purposes of this  
11                   section, be treated as a single district.
- 12                   4.    a.    The provisions of this section do not apply to a school district if the board of  
13                   the school district, after a public hearing at which public testimony and  
14                   documentary evidence are accepted, determines in its discretion and by an  
15                   affirmative vote of two-thirds of the members of the board that complying with  
16                   the provisions of subsection 1 would place the school district in the position of  
17                   having insufficient fiscal resources to meet the school district's other  
18                   obligations.
- 19                   b.    Within ten days of the vote required by subdivision a, the school board shall  
20                   notify the superintendent of public instruction of its action and shall file a  
21                   report detailing the grounds for its determination and action.
- 22                   c.    The superintendent of public instruction shall report all notices received under  
23                   this subsection to an interim committee designated by the legislative council.

24                   **SECTION 51. MILITARY INSTALLATION SCHOOL DISTRICTS - ELIGIBILITY FOR**  
25 **STATE AID AND EQUITY PAYMENTS.** If at any time the board of a United States military  
26 installation school district assumes responsibility for the direct provision of education to its  
27 students, the superintendent of public instruction shall include all students being educated by  
28 the board in the district's average daily membership, both for purposes of determining any state  
29 aid to which the district is entitled and for purposes of determining any equity payments to  
30 which the district is entitled under section 15.1-27-11.

1           **SECTION 52. AREA CAREER AND TECHNOLOGY CENTERS - ESTABLISHMENT**  
2 **GRANTS - COST-SHARE INCENTIVES.**

- 3           1. The state board for career and technical education shall use \$1,200,000 from the  
4 grants line item in section 3 of House Bill No. 1019, as approved by the sixtieth  
5 legislative assembly, to award grants for the purpose of assisting with the  
6 establishment of at least two new area career and technology centers in areas of  
7 the state that, as of July 1, 2007, are not served by an existing center. The board  
8 shall award the grants on a competitive basis and shall require a twenty-five  
9 percent match by a number of students who will be served and to alignment of the  
10 proposed area career and technology center with existing educational associations  
11 governed by joint powers agreements.
- 12           2. The state board for career and technical education shall use \$800,000 from the  
13 grants line item in section 3 of House Bill No. 1019, as approved by the sixtieth  
14 legislative assembly, to increase cost-share incentives for area career and  
15 technology centers.

16           **SECTION 53. CONTINGENT MONEY.** If any money appropriated to the  
17 superintendent of public instruction for state aid payments to school districts remains after the  
18 superintendent complies with all statutory payment obligations imposed for the biennium  
19 beginning July 1, 2007, and ending June 30, 2009, the superintendent shall:

- 20           1. Use the first \$1,000,000, or so much of that amount as may be necessary, to pay  
21 any state obligations in excess of the amount appropriated for special education  
22 contract charges;
- 23           2. Use the next \$1,000,000, or so much of that amount as may be necessary, for the  
24 purpose of providing additional per student payments to school districts  
25 participating in educational associations that are governed by a joint powers  
26 agreement and which have been reviewed by the superintendent of public  
27 instruction and verified as meeting the requirements of section 15.1-07-28;
- 28           3. Use the next \$450,000, or so much of that amount as may be necessary, for the  
29 purpose of providing additional payments to school districts serving English  
30 language learners and new immigrant English language learners, in accordance  
31 with chapter 15.1-38;

- 1           4.    Use the next \$200,000, or so much of that amount as may be necessary, for the  
2                    purpose of providing additional payments to school districts offering an adult  
3                    education program during the 2007-09 biennium; and
- 4           5.    Use the remainder of the moneys to provide additional per student payments on a  
5                    prorated basis according to the latest available average daily membership of each  
6                    school district.

7           **SECTION 54. CONTINGENT TRANSFER BY BANK OF NORTH DAKOTA FOR**  
8 **SPECIAL EDUCATION.** If during the biennium beginning July 1, 2007, and ending June 30,  
9 2009, the superintendent of public instruction determines that, using all available sources, there  
10 are insufficient funds with which to fully reimburse school districts for the excess costs of  
11 serving the one percent of special education students statewide who require the greatest  
12 school district expenditures in order to be provided with special education and related services,  
13 the industrial commission shall transfer from the earnings and accumulated and undivided  
14 profits of the Bank of North Dakota the amount the superintendent of public instruction certifies  
15 is necessary to provide the statutorily required level of reimbursement. The superintendent of  
16 public instruction shall file for introduction legislation requesting that the sixty-first legislative  
17 assembly return any amount transferred under this section to the Bank of North Dakota.

18           **SECTION 55. REPEAL.** Section 15.1-09-46 of the North Dakota Century Code is  
19 repealed.

20           **SECTION 56. REPEAL.** Sections 15.1-27-05, 15.1-27-06, 15.1-27-07, 15.1-27-12,  
21 15.1-27-14, 15.1-27-21, 15.1-27-32, 15.1-27-36, 15.1-27-37, and 15.1-27-38 of the North  
22 Dakota Century Code are repealed.

23           **SECTION 57. EXPIRATION DATE.** Section 28 of this Act is effective through June 30,  
24 2007, and after that date is ineffective.