

**Fifty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 9, 2001**

HOUSE BILL NO. 1344
(Representatives R. Kelsch, Brusegaard, Monson)
(Senators Krebsbach, Wardner)

AN ACT to provide contingent payments for declining enrollment and the distribution of differing payment amounts; to create and enact four new sections to chapter 15-40.1 and one new section to chapter 15.1-02 of the North Dakota Century Code or in the alternative to create and enact four new sections to chapter 15.1-27 of the North Dakota Century Code, relating to the compensation of teachers and a school district compensation report; to amend and reenact sections 15-40.1-06 and 57-15-27 of the North Dakota Century Code or in the alternative to amend and reenact sections 15.1-27-04 and 15.1-27-05 of the North Dakota Century Code, relating to per student payments and ending fund balances; to provide legislative intent; to provide for a legislative council study; to provide an appropriation; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. If House Bill No. 1045 does not become effective, section 15-40.1-06 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15-40.1-06. Declaration of legislative intent - Educational support per student - School district equalization factor - Limitations.

1. It is the intent of the legislative assembly to support elementary and secondary education in this state from state funds. For purposes of this section, state funds include all appropriations for foundation aid, tuition apportionment, supplemental per student payments, special education, vocational education, transportation aid, school district technology, the governor's school, teacher centers, and the leadership in educational administration development consortium. For purposes of distributing state funds, the superintendent of public instruction shall determine the educational cost per student. In determining the educational cost per student, the superintendent may not use:
 - a. Expenditures for capital outlay for buildings and sites, or debt service.
 - b. Expenditures from school activities and school lunch programs.
 - c. Expenditures for the cost of transportation, including the cost of schoolbuses.
2.
 - a. The educational support per student ~~during for~~ the first year of the ~~1999-2001~~ 2001-03 biennium ~~must be~~ is two thousand ~~one~~ two hundred ~~forty-five~~ eighty-seven dollars ~~and~~. ~~The educational support per student for the second year of the 1999-2001 2001-03 biennium the educational support per student must be~~ is two thousand ~~two~~ three hundred ~~thirty~~ forty-seven dollars ~~and~~. The educational support per student is the basis for calculating grants-in-aid on a per student basis as provided in sections 15-40.1-07 and 15-40.1-08.
 - b. School districts operating high schools not meeting the minimum curriculum as provided in section 15-41-24 or the teacher qualifications in section 15-41-25 must be supported in the amount of two hundred twenty dollars, which is the basis for calculating grants-in-aid on a per student basis as provided in section 15-40.1-07.

- c. School districts operating high schools that are not accredited pursuant to the accreditation standards adopted by the superintendent of public instruction on July 1, 1991, or that become unaccredited in any succeeding school year must be supported for the first year that they become unaccredited in the amount of the educational support per student established in subdivision a, which is the basis for calculating grants-in-aid on a per student basis as provided in section 15-40.1-07, but those school districts are not entitled to the amounts resulting from applying the factors in that section. The amount of aid a school district is entitled to under this subsection for each high school that is not accredited must be reduced by two hundred dollars times the number of students in the school for the second school year that the high school is unaccredited, and an additional two hundred dollars per student in the unaccredited school for each additional year the school remains unaccredited. Any high school that becomes accredited is entitled to the per student payments provided for in section 15-40.1-07 for the entire school year in which the school becomes accredited.
 - d. School districts operating elementary schools that are not accredited pursuant to the accreditation standards adopted by the superintendent of public instruction on July 1, 1992, or that become unaccredited in any succeeding school year must be supported for the first year that they become unaccredited in the amount of the educational support per student established in subdivision a, which is the basis for calculating grants-in-aid on a per student basis as provided in section 15-40.1-08, except that the amount of aid that a school district is entitled to under this subsection for each elementary school that is unaccredited must be reduced by two hundred dollars times the number of students in the school each year that the elementary school is unaccredited. Any elementary school that becomes accredited is entitled to the per student payments provided for in section 15-40.1-08 for the entire school year in which the school becomes accredited.
3. In determining the amount of payments due ~~a school districts for tuition apportionment provided in section 15-44-03, and per student aid under this section, the amount of district,~~ the superintendent of public instruction shall add the tuition apportionment, ~~foundation aid payments, per student payments, special education aid, and transportation aid, and teacher compensation payments for which a school district is eligible must be added together, and from that total, subtract the following amounts must be subtracted:~~
- a. The product of thirty-two mills times the latest available net assessed and equalized valuation of property of the school district.
 - b. The amount that the unobligated general fund balance of a school district on the preceding June thirtieth is in excess of ~~three-fourths~~ fifty percent of the ~~its~~ actual expenditures, plus ~~an additional~~ twenty thousand dollars.
4. No school district may receive foundation payments beyond the October payment unless the following reports have been filed with the superintendent of public instruction:
- a. Annual average daily membership report.
 - b. Annual school district financial report.
 - c. The September tenth fall enrollment report.
 - d. The personnel report forms for certified and noncertified employees.
5. No school district may receive the January foundation payment unless the taxable valuation and mill levy certifications are on file with the department of public instruction by December fifteenth.

SECTION 2. If House Bill No. 1045 does not become effective, a new section to chapter 15-40.1 of the North Dakota Century Code is created and enacted as follows:

Definitions. For purposes of sections 3 through 5 of this Act:

1. "Compensation" includes all salaries, benefits, commissions, memberships, the provision of housing, the provision of vehicles, and any other payments, in lieu of payments, or services, reportable as gross income under the Internal Revenue Code.
2. "Teacher" means an individual, other than an administrator, who is licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board and who is employed by the board of a school district in a position classified by the superintendent of public instruction as of July 1, 2001, as:
 - a. A class 22 coordinator;
 - b. A class 37 guidance counselor or school counselor;
 - c. A class 38 guidance counselor designate;
 - d. A class 40 instructional programmer;
 - e. A class 41 library media specialist;
 - f. A class 56 pupil personnel service provider;
 - g. A class 59 school psychologist;
 - h. A class 62 speech-language pathologist;
 - i. A class 68 supervisor;
 - j. A class 70 teacher or special education teacher; or
 - k. A class 72 tutor in training.

SECTION 3. If House Bill No. 1045 does not become effective, a new section to chapter 15-40.1 of the North Dakota Century Code is created and enacted as follows:

Compensation of teachers - Claim for reimbursement - Rules.

1. On or before October first of each year or within thirty days after the conclusion of the negotiation process provided for in chapter 15-38.1, the board of a school district may file a claim with the superintendent of public instruction for the reimbursement of moneys to be expended by the district during the school year to increase the compensation of teachers employed by the district.
2. The claim must include:
 - a. The number of full-time equivalent teachers employed by the district as of September fifteenth;
 - b. The number of full-time equivalent teachers who will receive an increase in compensation over the amount paid during the previous school year; and
 - c. The total amount of the increase in compensation.
3. a. For the 2001-02 school year, the reimbursement provided for in this section may not exceed one thousand dollars multiplied by the number of full-time equivalent teachers employed by the district as of September 15, 2001.

- b. Except as provided in subdivision c, for the 2002-03 school year, the reimbursement provided for in this section may not exceed three thousand dollars multiplied by the number of full-time equivalent teachers employed by the district as of September 15, 2002.
- c. For the 2002-03 school year, the reimbursement under this section for each individual employed as of September 15, 2002, as a full-time equivalent teacher for the first school year since becoming licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board, may not exceed one thousand dollars.
- 4. For purposes of this section, the claim of a district may include proportionate expenditures made by the district to compensate individuals employed as teachers by the special education unit or the area vocational and technology center to which the district belongs.
- 5. The superintendent of public instruction may adopt rules regarding claims for and the payment of reimbursements under this section.

SECTION 4. If House Bill No. 1045 does not become effective, a new section to chapter 15-40.1 of the North Dakota Century Code is created and enacted as follows:

Compensation of teachers - Distribution of reimbursement. The superintendent of public instruction shall distribute approximately one-sixth of the total amount to which each school district is entitled under section 3 of this Act on or before the first day of each November, December, January, February, March, and May.

SECTION 5. If House Bill No. 1045 does not become effective, a new section to chapter 15-40.1 of the North Dakota Century Code is created and enacted as follows:

Annual salary - Minimum amount. Beginning with the 2001-02 school year, the board of each school district shall provide to each full-time teacher, under contract for a period of nine months, a base salary level for the contract period equal to at least eighteen thousand five hundred dollars. Beginning with the 2002-03 school year, the board of each school district shall provide to each full-time teacher, under contract for a period of nine months, a base salary level for the contract period equal to at least twenty thousand dollars.

SECTION 6. A new section to chapter 15.1-02 of the North Dakota Century Code is created and enacted as follows:

School district employee compensation report.

- 1. Before September eleventh of each year, beginning in 2002, each school district shall provide the following information to the superintendent of public instruction, with respect to teachers and with respect to administrators:
 - a. The total amount of base salary.
 - b. The total amount of compensation reportable as gross income under the Internal Revenue Code.
 - c. Any other compensation paid or provided to or on behalf of individuals employed as teachers and as administrators.
 - d. Health insurance benefits paid to or on behalf of individuals employed as teachers and as administrators.
 - e. Retirement contributions and assessments paid on behalf of individuals employed as teachers and as administrators, and including individual shares if paid by the district.

- f. Any other benefits paid or provided to or on behalf of individuals employed as teachers and as administrators.
- 2. The superintendent of public instruction shall:
 - a. Compile the information required by subsection 1 in a manner that allows for accurate comparisons based on:
 - (1) Full-time versus part-time personnel;
 - (2) A normal schoolday versus an extended schoolday; and
 - (3) A regular school calendar of approximately one hundred eighty days versus an extended school year.
 - b. Forward a copy of the compiled information to the governor and the chairman of the legislative council.
- 3. If any school district fails without good cause to provide the information required by this section on or before September tenth and in the manner directed by the superintendent of public instruction, the superintendent shall withhold all state aid until the information is received.
- 4. For purposes of this section:
 - a. "Administrator" means an individual employed by a school district in an administrative position and includes a school district superintendent, an assistant or associate superintendent, a principal, an assistant principal, a special education director, a vocational education director, and any other individual whose position requires an administrator's credential.
 - b. "Teacher" means an individual, other than an administrator, who is licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board and who is employed by the board of a school district in a position classified by the superintendent of public instruction as of July 1, 2001, as:
 - (1) A class 22 coordinator;
 - (2) A class 37 guidance counselor or school counselor;
 - (3) A class 38 guidance counselor designate;
 - (4) A class 40 instructional programmer;
 - (5) A class 41 library media specialist;
 - (6) A class 56 pupil personnel service provider;
 - (7) A class 59 school psychologist;
 - (8) A class 62 speech-language pathologist;
 - (9) A class 68 supervisor;
 - (10) A class 70 teacher or special education teacher; or
 - (11) A class 72 tutor in training.

SECTION 7. AMENDMENT. Section 15.1-27-04 of the North Dakota Century Code as created by House Bill No. 1045, as approved by the fifty-seventh legislative assembly, is amended and reenacted as follows:

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

SECTION 8. AMENDMENT. Section 15.1-27-05 of the North Dakota Century Code as created by House Bill No. 1045, as approved by the fifty-seventh legislative assembly, is amended and reenacted as follows:

15.1-27-05. School district equalization factor. To determine the amount of payments due a school district, the superintendent of public instruction shall add the tuition apportionment payments, per student payments, special education aid, ~~and~~ transportation aid, and teacher compensation payments for which a school district is eligible and from that total subtract the following:

1. The product of thirty-two mills times the latest available net assessed and equalized valuation of property in the district.
2. The amount by which the unobligated general fund balance of the district on the preceding June thirtieth is in excess of ~~seventy-five~~ fifty percent of its actual expenditures, plus twenty thousand dollars.

SECTION 9. A new section to chapter 15.1-27 of the North Dakota Century Code is created and enacted as follows:

Definitions. For purposes of sections 10 through 12 of this Act:

1. "Compensation" includes all salaries, benefits, commissions, memberships, the provision of housing, the provision of vehicles, and any other payments, in lieu of payments, or services, reportable as gross income under the Internal Revenue Code.
2. "Teacher" means an individual, other than an administrator, who is licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board and who is employed by the board of a school district in a position classified by the superintendent of public instruction as of July 1, 2001, as:
 - a. A class 22 coordinator;
 - b. A class 37 guidance counselor or school counselor;
 - c. A class 38 guidance counselor designate;
 - d. A class 40 instructional programmer;
 - e. A class 41 library media specialist;
 - f. A class 56 pupil personnel service provider;
 - g. A class 59 school psychologist;
 - h. A class 62 speech-language pathologist;
 - i. A class 68 supervisor;
 - j. A class 70 teacher or special education teacher; or

- k. A class 72 tutor in training.

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

Compensation of teachers - Claim for reimbursement - Rules.

1. On or before October first of each year or within thirty days after the conclusion of the negotiation process provided for in chapter 15.1-16, the board of a school district may file a claim with the superintendent of public instruction for the reimbursement of moneys to be expended by the district during the school year to increase the compensation of teachers employed by the district.
2. The claim must include:
 - a. The number of full-time equivalent teachers employed by the district as of September fifteenth;
 - b. The number of full-time equivalent teachers who will receive an increase in compensation over the amount paid during the previous school year; and
 - c. The total amount of the increase in compensation.
3.
 - a. For the 2001-02 school year, the reimbursement provided for in this section may not exceed one thousand dollars multiplied by the number of full-time equivalent teachers employed by the district as of September 15, 2001.
 - b. Except as provided in subdivision c, for the 2002-03 school year, the reimbursement provided for in this section may not exceed three thousand dollars multiplied by the number of full-time equivalent teachers employed by the district as of September 15, 2002.
 - c. For the 2002-03 school year, the reimbursement under this section for each individual employed as of September 15, 2002, as a full-time equivalent teacher for the first school year since becoming licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board, may not exceed one thousand dollars.
4. For purposes of this section, the claim of a district may include proportionate expenditures made by the district to compensate individuals employed as teachers by the special education unit or the area vocational and technology center to which the district belongs.
5. The superintendent of public instruction may adopt rules regarding claims for and the payment of reimbursements under this section.

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

Compensation of teachers - Distribution of reimbursements. The superintendent of public instruction shall distribute approximately one-sixth of the total amount to which each school district is entitled under section 10 of this Act on or before the first day of each November, December, January, February, March, and May.

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

Annual salary - Minimum amount. Beginning with the 2001-02 school year, the board of each school district shall provide to each full-time teacher, under contract for a period of nine months, a level of salary for the contract period equal to at least eighteen thousand five hundred dollars.

Beginning with the 2002-03 school year, the board of each school district shall provide to each full-time teacher, under contract for a period of nine months, a base salary level for the contract period equal to at least twenty thousand dollars.

SECTION 13. AMENDMENT. Section 57-15-27 of the North Dakota Century Code is amended and reenacted as follows:

57-15-27. Interim fund. The governing body of any county, city, ~~school district,~~ park district, or ~~other~~ municipality, other than a school district, which is authorized to levy taxes may include in its budget an item to be known as the "interim fund" which must be carried over to the next ensuing fiscal year to meet the cash requirements of all funds or purposes to which the credit of the municipality may be legally extended, for that portion of such fiscal year prior to the receipt of taxes therein. In no case may ~~such~~ the interim fund be in excess of the amount reasonably required to finance the municipality for the first nine months of the next ensuing fiscal year. ~~Such~~ The interim fund may not be in excess of three-fourths of the current annual appropriation for all purposes other than debt retirement purposes and appropriations financed from bond sources ~~and, for school districts, an additional twenty thousand dollars.~~

SECTION 14. CONTINGENT PAYMENT - DECLINING ENROLLMENT.

1. If the superintendent of public instruction determines that the portion of the grants-foundation aid and transportation line item designated for per student payments in House Bill No. 1013, as approved by the fifty-seventh legislative assembly, exceeds the estimated expenditure for per student payments during the first year of the 2001-03 biennium by an amount sufficient to provide for a distribution of one hundred fifty dollars times the number of students by which each district's 2000-01 fall enrollment is less than the district's 1997-98 fall enrollment, the superintendent shall distribute one hundred fifty dollars times the number of students by which a district's 2000-01 fall enrollment is less than that district's 1997-98 fall enrollment.
2. If the superintendent of public instruction determines that the portion of the grants-foundation aid and transportation line item designated for per student payments in House Bill No. 1013, as approved by the fifty-seventh legislative assembly, does not exceed the estimated expenditure for per student payments during the first year of the 2001-03 biennium by the amount required for a payment under subsection 1, the superintendent may not distribute any amounts under subsection 1.
3. If the superintendent of public instruction determines that the portion of the grants-foundation aid and transportation line item designated for per student payments in House Bill No. 1013, as approved by the fifty-seventh legislative assembly, exceeds the estimated expenditure for per student payments during the second year of the 2001-03 biennium, the superintendent shall distribute two hundred fifty dollars times the number of students by which a district's 2000-01 fall enrollment is less than that district's 1997-98 fall enrollment, or a lesser proportionate amount if the amount available is insufficient to provide for a distribution of two hundred fifty dollars times the number of students by which each district's 2000-01 fall enrollment is less than the district's 1997-98 fall enrollment.
4. No school district may receive payments for declining enrollments in excess of four hundred students under this section.
5. During the 2001-03 biennium, no school district may receive more than two hundred fifty dollars times the number of students by which the district's 2000-01 fall enrollment is less than that district's 1997-98 fall enrollment.

SECTION 15. DISTRIBUTION OF DIFFERENCE IN PAYMENT AMOUNTS - HOLD HARMLESS - CONTINGENT PAYMENTS.

1. a. If funds appropriated by the legislative assembly to the grants-foundation aid and transportation line item in House Bill No. 1013, as approved by the fifty-seventh legislative assembly, remain after completion of all statutory obligations, including the payment of funds for declining enrollment under section 14 of this Act, to the extent of legislative appropriations, the superintendent of public instruction shall:
 - (1) Calculate the payment to which a school district is entitled during the 2001-03 biennium under this Act; and
 - (2) Calculate the payment to which a school district would have been entitled during the 2001-03 biennium under this Act if the per student payment established in section 15-40.1-06 or section 7 of this Act for the first year of the biennium were two thousand four hundred thirty-nine dollars and for the second year of the biennium were two thousand five hundred two dollars and if no level of teacher compensation were established in this Act.
- b. If the amount to which a school district is entitled during the biennium under this Act does not exceed the amount to which a school district would have been entitled under the parameters of subsection 2, the superintendent of public instruction shall forward the difference between the amounts to the school district on or before June 30, 2003.
- c. The superintendent may distribute up to \$2,000,000 of such contingent funds as hold harmless payments under this subsection. If insufficient funds exist to provide payments under this subsection, the superintendent shall prorate the amount to which the districts are entitled.
2. If funds appropriated by the legislative assembly to the grants-teacher compensation payments line item in House Bill No. 1013, as approved by the fifty-seventh legislative assembly, remain after completion of all statutory obligations, to the extent of legislative appropriations, the superintendent of public instruction shall distribute the remaining funds as additional per student payments under chapter 15-40.1 or 15.1-27.
3. If funds appropriated by the legislative assembly to the grants-foundation aid and transportation line item in House Bill No. 1013, as approved by the fifty-seventh legislative assembly, remain after completion of all statutory obligations, to the extent of legislative appropriations, the superintendent of public instruction shall distribute the remaining funds as additional per student payments under chapter 15-40.1 or 15.1-27.

SECTION 16. APPROPRIATION - GRANTS FOR NATIONAL TEACHER CERTIFICATION.

1. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$41,500, or so much of the sum as may be necessary, to the education standards and practices board for the purpose of making grants to assist teachers in obtaining national certification, for the biennium beginning July 1, 2001, and ending June 30, 2003.
2. An individual who is licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board may file an application with the board for a grant to assist with the cost of obtaining national teacher certification after July 1, 2001.
3. The education standards and practices board shall review each application chronologically.
4. A successful applicant is eligible to receive a grant in the amount of \$1,150 to assist with the assessment costs of national teacher certification.

5. At the conclusion of each of the first four full school years after the individual obtains the national teacher certification, the individual is entitled to receive an additional \$1,500, if:
 - a. The individual served during the school year as a full-time classroom teacher in a public school in this state; and
 - b. The individual participated in any efforts of the employing school district to develop and implement teacher mentoring programs and teacher evaluation programs.

SECTION 17. TEACHER COMPENSATION PACKAGE - LEGISLATIVE COUNCIL STUDY.

The legislative council shall consider studying the feasibility and desirability of implementing a teacher compensation package that recognizes four levels of teachers from beginning to advanced and which bases the compensation level for each category on the individual teacher's ability to meet or exceed district standards for content knowledge, planning and preparation for instruction, instructional delivery, student assessment, classroom management, and professional responsibility. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the fifty-eighth legislative assembly.

SECTION 18. LEGISLATIVE INTENT - GOALS OF SCHOOL DISTRICT REORGANIZATION.

It is the intent of the fifty-seventh legislative assembly that each reorganization of school districts result in a newly formed district that has long-term sustainability from a demographic and fiscal perspective and that can offer to current students and to students in the foreseeable future academic integrity and educational opportunities designed to enhance the students' natural talents and curiosities and ultimately enhance their lives, their career choices, and their ability to contribute to the society in which they find themselves as adults. It is the further intent of the fifty-seventh legislative assembly that the state board of public school education maintain cognizance of the fact that meeting these goals requires school districts participating in a reorganization to include at least one district that offers educational services to all its students from kindergarten through grade twelve and consists of a student population equaling at least two hundred twenty-five.

SECTION 19. APPROPRIATION - SCHOOL DISTRICT COMPENSATION REPORT. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$200,000, or so much of the sum as may be necessary, to the superintendent of public instruction for the purpose of developing and implementing a school district employee compensation report as provided in section 6 of this Act, for the biennium beginning July 1, 2001, and ending June 30, 2003.

SECTION 20. EFFECTIVE DATE. Subdivision b of subsection 3 of section 15-40.1-06 of the North Dakota Century Code as amended by section 1 of this Act, subsection 2 of section 15.1-27-05 of the North Dakota Century Code as amended by section 8 of this Act, and section 13 of this Act become effective on July 1, 2004.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-seventh Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1344.

House Vote: Yeas 76 Nays 14 Absent 8

Senate Vote: Yeas 32 Nays 16 Absent 1

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2001.

Approved at _____ M. on _____, 2001.

Governor

Filed in this office this _____ day of _____, 2001,
at _____ o'clock _____ M.

Secretary of State