

Sixty-ninth  
Legislative Assembly  
of North Dakota

## SECOND ENGROSSMENT

### REENGROSSED HOUSE BILL NO. 1369

Introduced by

Representatives Heinert, Richter

Senators Lemm, Schaible

1 A BILL for an Act to amend and reenact sections 15.1-27-04.1, 15.1-27-35, 48-01.2-02.1, and  
2 57-15-14.2 of the North Dakota Century Code, relating to the determination of state aid, the  
3 calculation of average daily membership, public improvement construction, and school district  
4 levies; to provide for a transfer; and to provide an effective date.

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

6 **SECTION 1. AMENDMENT.** Section 15.1-27-04.1 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8 **15.1-27-04.1. Baseline funding - Establishment - Determination of state aid. (Effective**  
9 **through June 30, 2025) (Retroactive application - [See note](#))**

- 10 1. ~~To determine the amount of state aid payable to each district, the superintendent of~~  
11 ~~public instruction shall establish each district's baseline funding. A district's baseline~~  
12 ~~funding consists of:~~
- 13 a. ~~All state aid received by the district in accordance with chapter 15.1-27 during the~~  
14 ~~2018-19 school year;~~
  - 15 b. ~~An amount equal to the property tax deducted by the superintendent of public~~  
16 ~~instruction to determine the 2018-19 state aid payment;~~
  - 17 c. ~~An amount equal to seventy-five percent of the revenue received by the school~~  
18 ~~district during the 2017-18 school year for the following revenue types:~~
- 19 (1) ~~Revenue reported under code 2000 of the North Dakota school district~~  
20 ~~financial accounting and reporting manual, as developed by the~~  
21 ~~superintendent of public instruction in accordance with section 15.1-02-08;~~

- (2) ~~Mineral revenue received by the school district through direct allocation from the state treasurer and not reported under code 2000 of the North Dakota school district financial accounting and reporting manual, as developed by the superintendent of public instruction in accordance with section 15.1-02-08;~~
- (3) ~~Tuition reported under code 1300 of the North Dakota school district financial accounting and reporting manual, as developed by the superintendent of public instruction in accordance with section 15.1-02-08, with the exception of revenue received specifically for the operation of an educational program provided at a residential treatment facility, tuition received for the provision of an adult farm management program, and beginning in the 2021-22 school year, seventeen percent of tuition received under an agreement to educate students from a school district on an air force base with funding received through federal impact aid, and an additional seventeen percent of tuition received under an agreement to educate students from a school district on an air force base with funding received through federal impact aid each school year thereafter, until the 2024-25 school year when sixty-eight percent of tuition received under an agreement to educate students from a school district on an air force base with funding received through federal impact aid must be excluded from the tuition calculation under this paragraph;~~
- (4) ~~Revenue from payments in lieu of taxes on the distribution and transmission of electric power;~~
- (5) ~~Revenue from payments in lieu of taxes on electricity generated from sources other than coal; and~~
- (6) ~~Revenue from the leasing of land acquired by the United States for which compensation is allocated to the state under 33 U.S.C. 701(c)(3);~~
- d. ~~An amount equal to the total revenue received by the school district during the 2017-18 school year for the following revenue types:~~

  - (1) ~~Mobile home tax revenue;~~
  - (2) ~~Telecommunications tax revenue; and~~

(3) Revenue from payments in lieu of taxes and state reimbursement of the  
homestead credit and disabled veterans credit; and

e. ~~Beginning with the 2020-21 school year, the superintendent shall reduce the  
baseline funding for any school district that becomes an elementary district  
pursuant to section 15.1-07-27 after the 2012-13 school year. The reduction must  
be proportional to the number of weighted student units in the grades that are  
offered through another school district relative to the total number of weighted  
student units the school district offered in the year before the school district  
became an elementary district. The reduced baseline funding applies to the  
calculation of state aid for the first school year in which the school district  
becomes an elementary district and for each year thereafter. For districts that  
become an elementary district prior to the 2020-21 school year, the  
superintendent shall use the reduced baseline funding to calculate state aid for  
the 2020-21 school year and for each year thereafter.~~

2. a. ~~The superintendent shall divide the district's baseline funding determined in  
subsection 1 by the district's 2017-18 weighted student units to determine the  
district's baseline funding per weighted student unit.~~

b. ~~For any school district that becomes an elementary district pursuant to section  
15.1-07-27 after the 2017-18 school year, the superintendent shall adjust the  
district's baseline funding per weighted student unit used to calculate state aid.  
The superintendent shall divide the district's baseline funding determined in  
subsection 1 by the district's weighted student units after the school district  
becomes an elementary district to determine the district's adjusted baseline  
funding per weighted student unit. The superintendent shall use the district's  
adjusted baseline funding per weighted student unit in the calculation of state aid  
for the first school year in which the school district becomes an elementary  
district and for each year thereafter.~~

e. ~~Beginning with the 2021-22 school year and for each school year thereafter, the  
superintendent shall reduce the district's baseline funding per weighted student  
unit. Each year the superintendent shall calculate the amount by which the  
district's baseline funding per weighted student unit exceeds the payment per~~

1           weighted student unit provided in subsection 3. For the 2023-24 school year the  
2           superintendent shall reduce the district's baseline funding per weighted student  
3           unit by forty percent of the amount by which the district's baseline funding per  
4           weighted student unit exceeds the payment per weighted student unit for the  
5           2023-24 school year. For each year thereafter, the reduction percentage is  
6           increased by an additional fifteen percent. However, the district's baseline funding  
7           per weighted student unit, after the reduction, may not be less than the payment  
8           per weighted student unit provided in subsection 3.

9       3.   a.   For the 2023-24 school year, the superintendent shall calculate state aid as the  
10       greater of:

- 11           (1)   The district's weighted student units multiplied by ten thousand six hundred  
12               forty-six dollars;  
13           (2)   One hundred two percent of the district's baseline funding per weighted  
14               student unit, as established in subsection 2, multiplied by the district's  
15               weighted student units, not to exceed the district's 2017-18 baseline  
16               weighted student units, plus any weighted student units in excess of the  
17               2017-18 baseline weighted student units multiplied by ten thousand  
18               six hundred forty-six dollars; or  
19           (3)   The district's baseline funding as established in subsection 1 less the  
20               amount in paragraph 1, with the difference reduced by forty percent and  
21               then the difference added to the amount determined in paragraph 1.

22       b.   For the 2024-25 school year and each school year thereafter, the superintendent  
23       shall calculate state aid as the greater of:

- 24           (1)   The district's weighted student units multiplied by eleven thousand  
25               seventy-two dollars;  
26           (2)   One hundred two percent of the district's baseline funding per weighted  
27               student unit, as established in subsection 2, multiplied by the district's  
28               weighted student units, not to exceed the district's 2017-18 baseline  
29               weighted student units, plus any weighted student units in excess of the  
30               2017-18 baseline weighted student units multiplied by eleven thousand  
31               seventy-two dollars; or

1           (3) The district's baseline funding as established in subsection 1 less the  
2           amount in paragraph 1, with the difference reduced by fifty-five percent for  
3           the 2024-25 school year and the reduction percentage increasing by fifteen  
4           percent each school year thereafter until the difference is reduced to zero,  
5           and then the difference added to the amount determined in paragraph 1.

6       4. After determining the product in accordance with subsection 3, the superintendent of  
7       public instruction shall:

8       a. Subtract an amount equal to sixty mills multiplied by the taxable valuation of the  
9       school district, except the amount in dollars subtracted for purposes of this  
10      subdivision may not exceed the previous year's amount in dollars subtracted for  
11      purposes of this subdivision by more than twelve percent, adjusted pursuant to  
12      section 15.1-27-04.3; and

13      b. Subtract an amount equal to seventy-five percent of all revenue types listed in  
14      subdivisions c and d of subsection 1. Before determining the deduction for  
15      seventy-five percent of all revenue types, the superintendent of public instruction  
16      shall adjust revenues as follows:

17      (1) Tuition revenue shall be adjusted as follows:

18           (a) In addition to deducting tuition revenue received specifically for the  
19           operation of an educational program provided at a residential  
20           treatment facility, tuition revenue received for the provision of an adult  
21           farm management program, tuition received for the education of  
22           high-cost and special education students, and tuition received under  
23           an agreement to educate students from a school district on an  
24           air force base with funding received through federal impact aid as  
25           directed each school year in paragraph 3 of subdivision c of  
26           subsection 1, the superintendent of public instruction also shall reduce  
27           the total tuition reported by the school district by the amount of tuition  
28           revenue received for the education of students not residing in the  
29           state and for which the state has not entered a cross-border education  
30           contract; and

1                               (b) ~~The superintendent of public instruction also shall reduce the total~~  
2                               ~~tuition reported by admitting school districts meeting the requirements~~  
3                               ~~of subdivision c of subsection 2 of section 15.1-29-12 by the amount~~  
4                               ~~of tuition revenue received for the education of students residing in an~~  
5                               ~~adjacent school district.~~

6                               (2) ~~After adjusting tuition revenue as provided in paragraph 1, the~~  
7                               ~~superintendent shall reduce all remaining revenues from all revenue types~~  
8                               ~~by the percentage of mills levied in 2022 by the school district for sinking~~  
9                               ~~and interest relative to the total mills levied in 2022 by the school district for~~  
10                              ~~all purposes.~~

11       5. ~~The amount remaining after the computation required under subsection 4 is the~~  
12       ~~amount of state aid to which a school district is entitled, subject to any other statutory~~  
13       ~~requirements or limitations.~~

14       6. ~~On or before June thirtieth of each year, the school board shall certify to the~~  
15       ~~superintendent of public instruction the final average daily membership for the current~~  
16       ~~school year.~~

17       7. ~~For purposes of the calculation in subsection 4, each county auditor, in collaboration~~  
18       ~~with the school districts, shall report the following to the superintendent of public~~  
19       ~~instruction on an annual basis:~~

20               a. ~~The amount of revenue received by each school district in the county during the~~  
21               ~~previous school year for each type of revenue identified in subdivisions c and d of~~  
22               ~~subsection 1;~~

23               b. ~~The total number of mills levied in the previous calendar year by each school~~  
24               ~~district for all purposes; and~~

25               c. ~~The number of mills levied in the previous calendar year by each school district~~  
26               ~~for sinking and interest fund purposes.~~

27       ~~**Baseline funding -- Establishment -- Determination of state aid. (Effective after**~~  
28       ~~**June 30, 2025)**~~

29       1. To determine the amount of state aid payable to each district, the superintendent of  
30       public instruction shall establish each district's baseline funding. A district's baseline  
31       funding consists of:

- a. All state aid received by the district in accordance with chapter 15.1-27 during the 2018-19 school year;
- b. An amount equal to the property tax deducted by the superintendent of public instruction to determine the 2018-19 state aid payment;
- c. An amount equal to seventy-five percent of the revenue received by the school district during the 2017-18 school year for the following revenue types:
  - (1) Revenue reported under code 2000 of the North Dakota school district financial accounting and reporting manual, as developed by the superintendent of public instruction in accordance with section 15.1-02-08;
  - (2) Mineral revenue received by the school district through direct allocation from the state treasurer and not reported under code 2000 of the North Dakota school district financial accounting and reporting manual, as developed by the superintendent of public instruction in accordance with section 15.1-02-08;
  - (3) Tuition reported under code 1300 of the North Dakota school district financial accounting and reporting manual, as developed by the superintendent of public instruction in accordance with section 15.1-02-08, with the exception of revenue received specifically for the operation of an educational program provided at a residential treatment facility, tuition received for the provision of an adult farm management program, and beginning in the 2025-26 school year, eighty-five percent of tuition received under an agreement to educate students from a school district on an air force base with funding received through federal impact aid, until the 2026-27 school year, and each school year thereafter, when all tuition received under an agreement to educate students from a school district on an air force base with funding received through federal impact aid must be excluded from the tuition calculation under this paragraph;
  - (4) Revenue from payments in lieu of taxes on the distribution and transmission of electric power;
  - (5) Revenue from payments in lieu of taxes on electricity generated from sources other than coal; and

- 1                   (6) Revenue from the leasing of land acquired by the United States for which  
2                   compensation is allocated to the state under 33 U.S.C. 701(c)(3); ~~and~~
- 3           d. An amount equal to the total revenue received by the school district during the  
4           2017-18 school year for the following revenue types:
- 5                   (1) Mobile home tax revenue;
- 6                   (2) Telecommunications tax revenue; and
- 7                   (3) Revenue from payments in lieu of taxes and state reimbursement of the  
8                   homestead credit and disabled veterans credit; and
- 9           e. Beginning with the 2020-21 school year, the superintendent shall reduce the  
10           baseline funding for any school district that becomes an elementary district  
11           pursuant to section 15.1-07-27 after the 2012-13 school year. The reduction must  
12           be proportional to the number of weighted student units in the grades that are  
13           offered through another school district relative to the total number of weighted  
14           student units the school district offered in the year before the school district  
15           became an elementary district. The reduced baseline funding applies to the  
16           calculation of state aid for the first school year in which the school district  
17           becomes an elementary district and for each year thereafter. For districts that  
18           become an elementary district prior to the 2020-21 school year, the  
19           superintendent shall use the reduced baseline funding to calculate state aid for  
20           the 2020-21 school year and for each year thereafter.
- 21           2. a. The superintendent shall divide the district's baseline funding determined in  
22           subsection 1 by the district's 2017-18 weighted student units to determine the  
23           district's baseline funding per weighted student unit.
- 24                   b. For any school district that becomes an elementary district pursuant to section  
25                   15.1-07-27 after the 2017-18 school year, the superintendent shall adjust the  
26                   district's baseline funding per weighted student unit used to calculate state aid.  
27                   The superintendent shall divide the district's baseline funding determined in  
28                   subsection 1 by the district's weighted student units after the school district  
29                   becomes an elementary district to determine the district's adjusted baseline  
30                   funding per weighted student unit. The superintendent shall use the district's  
31                   adjusted baseline funding per weighted student unit in the calculation of state aid



for the first school year in which the school district becomes an elementary district and for each year thereafter.

c. Beginning with the 2021-22 school year and for each school year thereafter, the superintendent shall reduce the district's baseline funding per weighted student unit. Each year the superintendent shall calculate the amount by which the district's baseline funding per weighted student unit exceeds the payment per weighted student unit provided in subsection 3. For the 2023-24 school year the superintendent shall reduce the district's baseline funding per weighted student unit by forty percent of the amount by which the district's baseline funding per weighted student unit exceeds the payment per weighted student unit for the 2023-24 school year. For each year thereafter, the reduction percentage is increased by an additional fifteen percent. However, the district's baseline funding per weighted student unit, after the reduction, may not be less than the payment per weighted student unit provided in subsection 3.

3. a. For the ~~2023-24~~2025-26 school year, the superintendent shall calculate state aid as the greater of:

(1) The district's weighted student units multiplied by ~~ten thousand six hundred forty-six~~eleven thousand two hundred ninety-three dollars;

(2) One hundred two percent of the district's baseline funding per weighted student unit, as established in subsection 2, multiplied by the district's weighted student units, not to exceed the district's 2017-18 baseline weighted student units, plus any weighted student units in excess of the 2017-18 baseline weighted student units multiplied by ~~ten thousand six hundred forty-six~~eleven thousand two hundred ninety-three dollars; or

(3) The district's baseline funding as established in subsection 1 less the amount in paragraph 1, with the difference reduced by ~~forty~~seventy percent and then the difference added to the amount determined in paragraph 1.

b. For the ~~2024-25~~2026-27 school year and each school year thereafter, the superintendent shall calculate state aid as the greater of:

(1) The district's weighted student units multiplied by eleven thousand ~~seventy-two~~five hundred nineteen dollars;

(2) One hundred two percent of the district's baseline funding per weighted student unit, as established in subsection 2, multiplied by the district's weighted student units, not to exceed the district's 2017-18 baseline weighted student units, plus any weighted student units in excess of the 2017-18 baseline weighted student units multiplied by eleven thousand ~~seventy-two~~five hundred nineteen dollars; or

(3) The district's baseline funding as established in subsection 1 less the amount in paragraph 1, with the difference reduced by ~~fifty-five~~eighty-five percent for the ~~2024-25~~2026-27 school year and the reduction percentage increasing by fifteen percent each school year thereafter until the difference is reduced to zero, and then the difference added to the amount determined in paragraph 1.

4. After determining the product in accordance with subsection 3, the superintendent of public instruction shall:

- a. Subtract an amount equal to sixty mills multiplied by the taxable valuation of the school district; and
- b. Subtract an amount equal to seventy-five percent of all revenue types listed in ~~subdivisions c and d~~subdivision c and paragraphs 1 and 2 of subdivision d of subsection 1 and revenue from payments in lieu of taxes. Before determining the deduction for seventy-five percent of all revenue types, the superintendent of public instruction shall adjust revenues as follows:

(1) Tuition revenue shall be adjusted as follows:

- (a) In addition to deducting tuition revenue received specifically for the operation of an educational program provided at a residential treatment facility, tuition revenue received for the provision of an adult farm management program, tuition received for the education of high-cost and special education students, and tuition received under an agreement to educate students from a school district on an air force base with funding received through federal impact aid as directed each school year in paragraph 3 of subdivision c of subsection 1, the superintendent of public instruction also shall reduce

1 the total tuition reported by the school district by the amount of tuition  
2 revenue received for the education of students not residing in the  
3 state and for which the state has not entered a cross-border education  
4 contract; and

5 (b) The superintendent of public instruction also shall reduce the total  
6 tuition reported by admitting school districts meeting the requirements  
7 of subdivision e of subsection 2 of section 15.1-29-12 by the amount  
8 of tuition revenue received for the education of students residing in an  
9 adjacent school district.

10 (2) After adjusting tuition revenue as provided in paragraph 1, the  
11 superintendent shall reduce all remaining revenues from all revenue types  
12 by the percentage of mills levied in ~~2022~~2024 by the school district for  
13 sinking and interest relative to the total mills levied in ~~2022~~2024 by the  
14 school district for all purposes.

15 5. The amount remaining after the computation required under subsection 4 is the  
16 amount of state aid to which a school district is entitled, subject to any other statutory  
17 requirements or limitations.

18 6. On or before June thirtieth of each year, the school board shall certify to the  
19 superintendent of public instruction the final average daily membership for the current  
20 school year.

21 7. For purposes of the calculation in subsection 4, each county auditor, in collaboration  
22 with the school districts, shall report the following to the superintendent of public  
23 instruction on an annual basis:

- 24 a. The amount of revenue received by each school district in the county during the  
25 previous school year for each type of revenue identified in subdivisions c and d of  
26 subsection 1;
- 27 b. The total number of mills levied in the previous calendar year by each school  
28 district for all purposes; and
- 29 c. The number of mills levied in the previous calendar year by each school district  
30 for sinking and interest fund purposes.

**SECTION 2. AMENDMENT.** Section 15.1-27-35 of the North Dakota Century Code is amended and reenacted as follows:

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

1. Average daily membership is calculated at the conclusion of the school year by adding the total number of hours that each student in a given grade, school, or school district is in attendance at the school's physical plant during a school calendar and the total number of hours that each student in a given grade, school, or school district is absent during a school calendar, and then dividing the sum by:

- a. Nine hundred sixty-two and one-half hours for elementary school students; or
- b. One thousand fifty hours for middle and high school students.

2. For purposes of calculating average daily membership:

- a. A student enrolled full time in any grade from one through twelve may not exceed an average daily membership of 1.00. The membership may be prorated for a student who is enrolled less than full time.
- b. A student enrolled full time in an approved regular education kindergarten program may not exceed an average daily membership of 1.00. The membership may be prorated for a student who is enrolled less than full time.
- c. A student enrolled full time, as defined by the superintendent of public instruction, in an approved early childhood special education program may not exceed an average daily membership of 1.00. The membership may be prorated for a student who is enrolled less than full time.
- d. A student enrolled full time in virtual instruction is calculated at an average daily membership of 1.00. The membership may be prorated for a student who is enrolled less than full time.

3. For purposes of determining state aid pursuant to section 15.1-27-04.1, average daily membership is the greater of:

- a. The amount calculated in subsections 1 and 2 of this section; or
- b. The average of the amounts calculated in subsections 1 and 2 of this section for the prior three years.

**SECTION 3. AMENDMENT.** Section 48-01.2-02.1 of the North Dakota Century Code is amended and reenacted as follows:

1       **48-01.2-02.1. Public improvement construction threshold.**

- 2       1. The threshold for bidding construction of a public improvement is two hundred fifty  
3       thousand dollars. The threshold for procuring plans, drawings, ~~and specifications,~~ and  
4       bonding from an architect or engineer for construction of a public improvement is two  
5       hundred fifty thousand dollars.
- 6       2. Notwithstanding the thresholds in subsection 1, if the state or a political subdivision  
7       undertakes the construction of a public improvement and there is reason to believe  
8       that engineering or architectural services are necessary to protect the health, safety, or  
9       welfare of the public, the state or political subdivision shall consider consulting with an  
10      engineer or architect.

11      **SECTION 4. AMENDMENT.** Section 57-15-14.2 of the North Dakota Century Code is  
12      amended and reenacted as follows:

13      **57-15-14.2. School district levies.**

- 14      1. The board of a school district may levy a tax ~~not exceeding the amount in dollars that~~  
15      ~~the school district levied for the prior year, plus twelve percent,~~ up to a levy of seventy  
16      mills on the taxable valuation of the district, for any purpose related to the provision of  
17      educational services. The proceeds of this levy must be deposited into the school  
18      district's general fund and used in accordance with this subsection. The proceeds may  
19      not be transferred into any other fund.
- 20      2. The board of a school district may levy no more than twelve mills on the taxable  
21      valuation of the district, for miscellaneous purposes and expenses. The proceeds of  
22      this levy must be deposited into a special fund known as the miscellaneous fund and  
23      used in accordance with this subsection. The proceeds may not be transferred into  
24      any other fund.
- 25      3. The board of a school district may levy no more than three mills on the taxable  
26      valuation of the district for deposit into a special reserve fund, in accordance with  
27      chapter 57-19.
- 28      4. The board of a school district may levy no more than the number of mills necessary,  
29      on the taxable valuation of the district, for the payment of tuition, in accordance with  
30      section 15.1-29-15. The proceeds of this levy must be deposited into a special fund

known as the tuition fund and used in accordance with this subsection. The proceeds may not be transferred into any other fund.

5. The board of a school district may levy no more than five mills on the taxable valuation of the district, pursuant to section 57-15-15.1, for purposes of developing a school safety plan in accordance with section 15.1-09-60. The proceeds of this levy must be deposited into a special fund known as the school safety plan fund and used in accordance with this subsection.

6. Nothing in this section limits the board of a school district from levying:

- a. Mills for a building fund, as permitted in sections 15.1-09-49 and 57-15-16; and
- b. Mills necessary to pay principal and interest on the bonded debt of the district, including the mills necessary to pay principal and interest on any bonded debt incurred under section 57-15-17.1 before July 1, 2013.

**SECTION 5. TRANSFER - FOUNDATION AID STABILIZATION FUND TO SCHOOL**

**CONSTRUCTION ASSISTANCE REVOLVING LOAN FUND.** The office of management and budget shall transfer the sum of \$75,000,000 from the foundation aid stabilization fund to the school construction assistance revolving loan fund during the biennium beginning July 1, 2025, and ending June 30, 2027.

**SECTION 6. EFFECTIVE DATE.** Section 4 of this Act is effective for taxable years beginning after December 31, 2024.