

## **SCHOOL CLOSINGS DUE TO SEVERE WEATHER AND OTHER EMERGENCIES - BACKGROUND MEMORANDUM**

Section 63 of 2009 House Bill No. 1400 ([Appendix A](#)) directs the Legislative Council to study longer term elementary and high school closings and student transfers necessitated by the occurrence of widespread or severe damage as a result of any natural or manmade cause, including fire, flood, tornado, storm, chemical spill, and epidemic. Whether life threatening or merely inconvenient, such occurrences have the potential to affect the location and manner in which students are educated.

### **NORTH DAKOTA STATUTES**

The North Dakota Century Code (NDCC) has relatively few sections addressing emergency preparedness by schools or school districts. Section 15.1-06-12 directs each school district superintendent to "implement fire, tornado, and other emergency or disaster drills" and Sections 15.1-06-09 and 15.1-06-10 require that the State Fire Marshal or the State Fire Marshal's designee inspect each public and nonpublic school at least once every three years. Section 15.1-06-11 requires that any door that could be used as an exit in the case of a fire or other emergency must remain free of all obstruction and free of any device or mechanism that may impede immediate egress. The Century Code is silent with respect to staff training, evacuation plans, and parental notification and provides no guidance with respect to weather or emergency-related school cancellations. The Century Code establishes no alternate means of education during emergencies and has no provision for reimbursing school districts that provide assistance to displaced students from neighboring districts.

### **School Calendar Requirements**

The Century Code requires school districts to provide for a school calendar of at least 180 days during the 2009-10 school year. One hundred seventy-three of those days must be used for instruction. During the 2010-11 school year, the calendar is expanded to 181 days with 174 of those days for instruction; and thereafter, the calendar is required to be 182 days with 175 days of instruction. The seven noninstructional days are statutorily required for holidays, parent-teacher conferences or compensatory time for parent-teacher conferences held outside regular school hours, and professional development. The Century Code does not require that school districts build in "storm days," i.e., days on which classes will be held in the event that bad weather or unforeseen circumstances preclude normal operation.

By tradition, most school districts include at least two storm days in their school calendars. President's

Day in February, a long weekend in March, and Easter Monday appear to be the most popular days from which two storm days are commonly selected.

If winter storms, spring floods, or boiler malfunctions occur later in the school year or if they occur with a frequency or a duration in excess of the built-in storm days, school districts request gubernatorial waivers so that they can continue to receive state aid, even though they did not meet the statutorily required number of instructional days.

### **Making Up Instructional Days**

North Dakota Century Code Section 15.1-06-04 defines an instructional day as being at least five and one-half hours for kindergarten and elementary students and at least six hours for high school students. If a school's normal day extends beyond this minimum requirement and if over the course of a school year this extension amounts to more than 84 hours, the school does not have to make up six hours of instructional time lost as a result of a weather-related closure. This is colloquially referred to as the "grace day." If a school is going to make up any lost instructional time over this amount, it must extend its normal schoolday by at least 30 minutes.

### **Waiver of Instructional Days**

North Dakota Century Code Section 15.1-27-23 states that if, as a result of severe weather or other emergency conditions, a school or school district must remain closed or if a school or school district provides less than a full day of instruction, the school or school district must make every effort to reschedule classes so that students receive at least 173 full days of instruction. If the rescheduling of classes would create "undue hardship" for a school or school district, the section allows the school or school district to request that, for purposes of calculating state aid, the Governor waive the rescheduling in whole or in part. The Century Code does not define what constitutes "undue hardship" and does not indicate whether the directive to "make every effort to reschedule classes" anticipates anything other than using allotted storm days.

North Dakota Century Code Section 15.1-27-23 does specifically state that the "governor may not grant a waiver for less than a full day of instruction." The intent of this provision is not clear. If a school cancels classes as of noon, having held classes for only four of the requisite six hours, one interpretation might be that the Governor may not waive the two afternoon hours. If this same scenario happens three times in a row, and the school then asks for a waiver of six cumulative hours, may this be granted?

In 1973 the Legislative Assembly enacted House Bill No. 1380. This bill allowed the Governor to declare a state of emergency and provided that any school district that is located within the boundaries of the territory included within the Governor's proclamation or designated by the proclamation may include up to five days during which school was not held, for purposes of the foundation program. The bill then stated that any "school district in which schools are closed for in excess of five days in any school year because of such a state of emergency shall receive two days of credit for foundation program purposes for each additional day school is held to make up for such lost days." This provision was repealed in 1999 and replaced by language virtually identical to that currently found in NDCC Section 15.1-27-23:

If because of severe weather or other emergency conditions a school or school district remains closed or provides less than a full day of instruction, the school or school district shall make every effort to reschedule classes so that students receive at least one hundred seventy-three full days of instruction. Any school or school district for which the rescheduling of classes would create undue hardship may request that, for purposes of calculating state payments to the school or school district, the governor waive the rescheduling in whole or in part. The governor may not grant a waiver for less than a full day of instruction.

To obtain a waiver, a school district must submit to the Superintendent of Public Instruction a form entitled *Request for Emergency Declaration State Aid*

*Eligibility (Appendix B)*. The form requires a list of the dates that school was canceled, the reason for the cancellation, and the rationale under which rescheduling is deemed to create an "undue hardship." The form is reviewed by Department of Public Instruction personnel and a recommendation is submitted to the Governor.

An attached chart ([Appendix C](#)) shows that during the 2008-09 school year, the Governor waived instructional days for 107 school districts.

## STUDY

This study will allow the committee an opportunity to review and evaluate the manner in which school closures resulting from severe weather or other emergency conditions impact the education of elementary and high school students. The study could address the process by which decisions are made to close schools, the interpretation and utilization of the existing waiver provisions, and the need to plan in advance for potential longer term interruptions in both the operation and financing of schools and the instruction of students. As legislative efforts are made to extend the school calendar for the educational benefit of students, it is appropriate to examine past responses to and future preparation for severe winter weather, floods, tornadoes, pandemics, and other unforeseen events as they relate to the school calendar and particularly as they relate to instructional time.

ATTACH:3

**2009 HOUSE BILL NO. 1400**

**SECTION 63. LEGISLATIVE COUNCIL STUDY - DISPLACEMENT OF STUDENTS - NATURAL OR MANMADE CAUSES.** During the 2009-10 interim, the legislative council shall consider studying longer term elementary and high school closings and student transfers necessitated by the occurrence of widespread or severe damage as a result of any natural or manmade cause, including fire, flood, tornado, storm, chemical spill, and epidemic. The study should address the coordination of plans to accommodate displaced students, examine responsibility for payment obligations to districts that are not able to provide services, examine responsibility for compensating districts that have accepted displaced students, and specifically examine the expenses incurred by school districts that provided services to displaced students during the 2009 floods. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly.



**REQUEST FOR EMERGENCY DECLARATION STATE AID ELIGIBILITY**  
**STATE OF NORTH DAKOTA**  
 SFN 51826 (Rev. 1-2009)

RETURN TO:  
 Department of Public Instruction  
 School Approval and Accreditation  
 600 E Boulevard Avenue, Dept. 201  
 Bismarck, ND 58505-0440

**This form is due in the School Approval and Accreditation office – May 1.**

North Dakota Century Code §15.1-27-23. Weather or other emergency conditions – Closure of Schools – State payments to school districts permits the Governor to grant a waiver in the event severe weather or other emergency conditions cause a school or school district to close or provide less than a full day of instruction. However, the school or school district must first make every effort to reschedule classes so that students receive at least one hundred seventy-three full days of instruction. In order to apply for the waiver, the request must be submitted by May 1. This timeframe allows time for the Governor to consider the request and time to make up the requested days in the event the request is denied.

**Section I.**

*Please complete the district's contact information requested below. The Governor's Office will advise the school district and the Department of Public Instruction of its decision.*

District Name		County Number	District Number
Mailing Address	City	State	Zip Code + 4
Contact Person	Position	Telephone Number	
E-mail Address		Fax Number	
Signature		Date	

North Dakota Century Code § 15.1-06-04 School calendar – Length defines that for the 2008-09 school year, a full-day of instruction consists of a minimum of five and one-half hours per day of instruction at the kindergarten and elementary level and six hours per day of instruction at the high school level. If a school's calendar provides for an extension of each school day beyond the statutorily required minimum number of hours, and if the extensions when aggregated over an entire school year amount to more than eighty-four hours of additional classroom instruction during the school year, the school is exempt from having to make up six hours of instruction time lost as a result of weather-related closure. In order to make up lost classroom instruction time beyond the six hours, the school must extend its normal school calendar day by at least thirty minutes.

**Section II.**

*Please complete this form to indicate school days that were cancelled as a result of severe weather or other emergency conditions. In this section, please indicate the length of school day, summary of school closures due to weather or emergency conditions, rationale for undue hardship, and the district's best attempts to make up the requested waiver days.*

Length of school day in hours as reported on the fall calendar:

\_\_\_\_\_ Kindergarten      \_\_\_\_\_ Elementary      \_\_\_\_\_ Junior High/Middle      \_\_\_\_\_ High School

Dates school was cancelled due to weather or emergency condition	Reason for cancellation (i.e. inclement weather, boiler failure, gas leak that could risk student safety, etc.)	Date cancellation was made up or indicate if requesting a waiver	For dates in which a waiver is requested, please provide reasoning for which the rescheduling of classes would create undue hardship to the district on the next page.

Date of cancellation in which a waiver is requested	Reasoning for which the rescheduling of classes would create undue hardship to the district

<p>Please describe what the district has done to make every effort to reschedule classes so that students receive at least 173 instructional days.</p>

Before the *Request for Emergency Declaration State Aid Eligibility* (SFN 51826) can be submitted or is eligible for review by the Governor's Office, the school district must:

1. Account for, and utilize, two or more weather related closure days accounted for in their school calendars.
2. Provide a *School Calendar Amendment Request* in the form of a memo or letter to the Department of Public Instruction demonstrating that the district has made every attempt to ensure 173 instructional days are provided to their students. The *School Calendar Amendment Request* must show the district's plans for exhausting all eligible and potential instructional days remaining in the school calendar. These dates may include non-mandated holidays (please reference NDCC § 15.1-06-02– School Holidays), preplanned breaks, days between last day of school and scheduled high school graduation, or Saturdays.
3. Exercise all options outlined in the district's *School Calendar Amendment Request*. A district's undue hardship rationale and *Request for Emergency Declaration State Aid Eligibility* (SFN 51826) will only be considered after the school district has exercised all options outlined in their *School Calendar Amendment Request*.

### 2008-2009 School Day Waivers

	School District	Dates Waived	Number of Full Days Waived*	Partial Days / Hours Waived*
1	Adams Public School District	03-24 03-25 04-01	3 days	
2	Ashley Public School District	03-31	1 day	
3	Bakker Public School District Hague, ND	03-23 03-24 03-30 03-31	4 days	
4	Barnes County North Public School District Rogers, ND	03-10 03-11 03-25 03-31 04-01	5 days	
5	Belcourt Public School District	12-15 (2 hours) 12-16 (1.5 hours) 01-12 (2 hours) 01-15 (2 hours) 02-10 (2 hours) 02-11 (1.5 hours) 03-05 (2 hours) 03-11 (0.5 hours) 03-24	1 day	13.5 hours
6	Belfield Public School District	03-25 03-30	2 days	

7	Beulah Public School District	03-24 03-25	2 days	
8	Billings County Public School District Medora, ND	03-24 03-30	2 days	
9	Bottineau Public School District	03-24	1 day	
10	Carrington Public School District	11-06 (2.5 hours) 12-15 (2.0 hours) 12-23 (1.0 hours) 04-01 (1.0 hour)		6.5 hours
11	Center-Stanton Public School District	03-25 03-30	2 days	
12	Central Cass Public School District Casselton, ND	03-25 03-26 03-27 03-30 03-31 04-01 04-02	7 days	
13	Central Elementary Public School District Amidon, ND	03-25 03-30 03-31	3 days	
14	Devils Lake Public School District	03-25	1 day	
15	Dickinson Public School District	03-25	1 day	
16	Edgeley Public School District	04-01	1 day	
17	Edmore Public School District	03-24 03-25 04-01	3 days	
18	Elgin-New Leipzig Public	02-26	6 days	

	School District	03-10 03-24 03-25 03-30 03-31		
19	Ellendale Public School District	02-27 (1 hour) 03-11 (1 hour) 03-31 04-01 (1 hour)	1 day	3 hours
20	Enderlin Area Public School District	03-10 03-11 03-25 03-31 04-01	5 days	
21	Fairmont Public School District	03-24 03-25 03-31 04-01	4 days	
22	Fargo Public School District	03-11 (2 hours) 03-26 03-27 03-30 03-31 04-01 04-02 04-03	7 days	2 hours
23	Fessenden-Bowdon Public School District	03-25	1 day	
24	Finley-Sharon Public School District	02-27 (1 hour) 03-09 (1.5 hours) 03-11 03-25	3 days	2.5 hours

		03-31		
25	Flasher Public School District	03-24 03-25 03-30 03-31	4 days	
26	Fort Ransom Public School District Lisbon, ND	02-26 02-27 (1 hour) 03-09 (1.5 hours) 03-10 03-11 (2 hours) 03-25 03-26 03-30 (2.5 hours) 03-31 04-01 (2 hours)	5 days	9 hours
27	Fort Yates Public School District	03-23 03-24	2 days	
28	Gackle-Streeter Public School District	03-25 03-30 03-31 04-01	4 days	
29	Garrison Public School District	03-24	1 day	
30	Glen Ullin Public School District	03-24 03-25 03-30	3 days	
31	Glenburn Public School District	03-24	1 day	
32	Goodrich Public School	04-01	2 days	

	District	04-02		
33	Hankinson Public School District	03-11 03-24 03-25 03-31 04-01	5 days	
34	Hazelton-Moffit-Braddock Public School District	03-24 03-30 03-31	3 days	
35	Hazen Public School District	03-25	1 day	
36	Hebron Public School District	02-10 03-24 03-25 03-30	4 days	
37	Hettinger Public School District	03-24 03-30	2 days	
38	Hillsboro Public School District	02-27 (1 hour) 03-09 (1.5 hours) 03-11 03-24 03-25 03-26 03-31 04-01 (2 hours)	5 days	4.5 hours
39	Hope-Page Public School District	02-27 (1 hour) 03-09 (1.5 hours) 03-11	1 day	2.5 hours

40	Jamestown Public School District	03-25 03-26 (2 hours) 03-31 04-01 (2 hours)	2 days	2 hours
41	Kidder County Public School District	03-30 03-31 04-14	3 days	
42	Kindred Public School District	03-23 03-24 03-25 03-26 03-27 03-30 03-31 04-01 04-02 04-03	10 days	
43	Kulm Public School District	03-11 03-31 04-01	3 days	
44	LaMoure Public School District	03-10 03-11 03-25 03-30 (partial) 03-31 04-01	5 days	partial
45	Leeds Public School District	02-12 (1 hour) 03-24 (2 hours) 03-25	1 day	3 hours
46	Lewis and Clark Public School District Berthold, ND	02-09 02-10 02-11 03-24	4 days	

47	Lidgerwood Public School District	03-11 03-23 03-25 03-31 04-01	5 days	
48	Linton Public School District	03-24 03-30 03-31	3 days	
49	Lisbon Public School District	03-11 (1 hour) 03-25 03-26 (1 hour) 03-30 (1 hour) 03-31 04-01 (1 hour)	2 days	4 hours
50	Litchville-Marion Public School District	2-26 3-10 3-11 3-24 3-25 3-31 4-01	7 days	
51	Mandan Public School District	3-30	1 day	
52	Mandaree Public School District	11-12 11-13 11-14 11-17 (1/2 day) 01-14 02-09 02-10	9 days	½ day

		02-11 02-12 02-13		
53	Maple Valley Public School District Tower City, ND	03-11 03-24 03-25 03-31	4 days	
54	Mapleton Elementary School District	03-11 03-25 03-26 03-27 03-28 03-29 03-30 03-31 04-01	9 days	
55	Marmarth Public School District	03-24 03-25 03-30 03-31	4 days	
56	Max Public School District	03-24 03-25	2 days	
57	Mayport-CG Public School District	03-25	1 day	
58	McClusky Public School District	03-24	1 day	
59	Medina Public School District	03-11 03-25 03-30 03-31 04-01	5 days	22.25 hours (for late starts)
60	Midkota Public School District	02-10 02-20	7 days	

	Binford, ND	03-09 03-25 03-26 03-31 04-01		
61	Milnor Public School District	03-10 03-24 03-25 03-31	4 days	
62	Minnewaukan Public School District	03-10 (2 hours) 03-11 (1 hour) 03-24 (2 hours) 03-25 04-01 (1 hour)	1 day	6 hours
63	Minot Public School District	01-12 03-24 (3.5 hours)	1 day	3.5 hours
64	Montpelier Public School District	12-16 (2 hours) 01-13 (2 hours) 01-14 (1 hour) 03-09 (1 hour) 03-30 (3 hours) 03-24 03-25 03-26 03-27 03-31 04-01 04-13	7 days	9 hours
65	Mott-Regent Public School	02-10 03-24 03-25	5 days	

		03-30 03-31		
66	Mount Pleasant Public School District Rolla, ND	11-06 (3 hours) 11-07 (1.5 hours) 01-13 (1 hour) 02-12 (1 hour)	0 days	6.5 hours
67	Napoleon Public School District	03-24 03-30 03-31	3 days	
68	New Public School District No. 8 Williston, ND	02-11 02-12	2 days	
69	New England Public School District	02-10 02-11 03-24 03-25 03-30 03-31	6 days	
70	New Rockford-Sheyenne Public School District	02-09 03-10 (3 hours) 03-25	2 days	3 hours
71	Newburg United Public School District	02-10 03-24	2 days	
72	Northern Cass Public School District Hunter, ND	03-25 03-26 03-27 03-31	4 days	
73	North Central Public School District Rock Lake, ND	03-25	1 day	
74	North Sargent Public	03-31	1 day	

	School District Gwinner, ND			
75	North Star Public School District Cando, ND	03-25	1 day	
76	Oakes Public School District	03-10 03-11 (2 hours) 03-30 (1.5 hours) 03-31 04-01 (2 hours)	2 days	5.5 hours
77	Oberon Public School District	03-25 04-01	2 days	
78	Pingree-Buchanon Public School District	03-09 (3 hours) 03-10 03-11 03-24 03-25 03-30 03-31 04-01	7 days	3 hours
79	Pleasant Valley 35 Public School District Hurdsfield, ND	03-24 03-25	2 days	
80	Richardton-Taylor Public School District	03-25 03-30 03-31	3 days	
81	Richland Public School District Colfax, ND	03-10 03-11 03-23 03-24 03-25 03-26	9 days	1 hour

		03-27 03-30 (1 hour) 03-31 04-01		
82	Robinson Public School District	03-20	1 day	
83	Rolette Public School District	03-24	1 day	
84	Roosevelt Public School District Carson, ND	02-26 03-10 03-24 03-25 03-30 03-31	6 days	
85	Rugby Public School District	03-24	1 day	
86	Sargent Central Public School District Forman, ND	03-10 03-31	2 days	
87	Scranton Public School District	03-31	1 day	
88	Selfridge Public School District	02-26 03-10 03-23 03-24 03-30 03-31	6 days	
89	Solen Public School District	03-23 03-24 03-25 03-30 03-31	5 days	

90	South Heart Public School District	03-25 03-30 03-31	3 days	
91	Stanley Public School District			4 hours (for late starts)
92	Strasburg Public School District	03-30 03-31	2 days	
93	Surrey Public School District	03-24	1 day	
94	Sweet Briar Public School District Mandan, ND	03-23 03-24 03-30 03-31 04-13	5 days	
95	TGU Public School District Towner, ND	03-24	1 day	8.5 hours (for late starts and early dismissals on 7 days)
96	Turtle Lake-Mercer Public School District	01-13 (½ day)		½ day
97	Twin Buttes Public School District Halliday, ND	03-25	1 day	
98	Underwood Public School District	03-24	1 day	
99	United Public School District Des Lacs, ND	2-11 03-24	2 days	
100	Valley City Public School District	03-10 03-25 03-26 (2 hours)	13 days	4 hours

		03-31 04-01 (2 hours) 04-13 04-14 04-15 04-16 04-17 04-20 04-21 04-22 04-23 04-24		
101	Wahpeton Public School District	03-10 03-11 03-13 03-24 03-25 03-31 04-01	7 days	
102	Warwick Public School	12-19 (1 hour) 01-15 (2 hours) 01-27 (2 hours) 02-10 (2 hours) 02-11 (1 hour) 02-12 (1 hour) 03-03 (1 hour) 03-11 (1 hour) 03-24 (1 hour)	0 days	12 hours
103	West Fargo Public School District	03-27 03-30 03-31	6 days	

		04-01 04-02 04-03		
104	Westhope Public School District	02-10 02-24	2 days	
105	White Shield Public School District Roseglen, ND	02-11 03-24 03-25	3 days	
106	Wishek Public School District	03-30 03-31 04-02 (2 hours)	2 days	2 hours
107	Wyndmere Public School District	03-10 03-11 03-23 03-24 03-25 03-31 04-01	7 days	

The information contained in this attachment was obtained from letters written by Governor John Hoeven to the respective school district administrators between April 27, 2009 and June 16, 2009. In each case, the Governor indicated that the days or hours were waived upon a finding that rescheduling the days would create undue hardship on the school or school district.