Sixtieth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2200

Introduced by

Senators Flakoll, Holmberg, O'Connell

Representatives Gulleson, R. Kelsch, Monson

A BILL for an Act to create and enact a new section to chapter 15.1-22, seven new sections to chapter 15.1-27, a new section to chapter 15.1-36, and two new sections to chapter 15.1-38 of the North Dakota Century Code, relating to the determination of state aid to school districts; to amend and reenact section 15.1-02-09, subsection 6 of section 15.1-07-28, and 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, 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, 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, 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, 15.1-32-18, 15.1-33-02, 15.1-36-02, and 57-15-14 of the North Dakota Century Code, relating to the determination of state aid to school districts; to repeal sections 15.1-09-46, 15.1-27-05, 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, 15.1-27-37, and 15.1-27-38 of the North Dakota Century Code, relating to the school district census, the school district equalization factor, weighting factors, supplemental payments, additional per student payments, property valuations, and teacher compensation payments; to provide for a commission on education improvement; to provide for teacher compensation increases; to provide for contingent payments; to provide for a contingent transfer; to provide for reports to the legislative council; to provide appropriations; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

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

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

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

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

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

Kindergarten - At-risk students - Authorization - Calculation of state aid.

1. Beginning July 1, 2008, a school district may operate a kindergarten program for at-risk students.
2. In order to calculate state aid payments for a school district that operates a program authorized by this section, the superintendent of public instruction shall determine the percentage of students in the district, in grades one through six,

whose families meet the federal income guidelines for free and reduced lunch. The state aid payments must be based on the number of kindergarten students multiplied by that same percentage.

3. Nothing in subsection 2 limits the selection of students who may participate in a kindergarten program for at-risk students.

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

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

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

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

1. The superintendent of public instruction shall ~~determine~~ estimate the total state payments ~~made to each~~ to which a school district ~~during the previous fiscal~~ is entitled each year.
2. The superintendent of public instruction shall pay each district ten percent of the amount determined under subsection 1, within the limits of legislative appropriation, on or before August first and September first of each year. The superintendent shall pay each school district twenty percent of that amount, within the limits of legislative appropriation, on or before October first of each year.

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

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

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

1. The superintendent of public instruction may not forward state aid payments to a school district beyond the October payment unless the district has filed the following with the superintendent:
   a. ~~An annual average daily~~ The June thirtieth student membership and attendance report~~.~~;
   b. An annual school district financial report~~.~~; and
   c. ~~The September tenth fall enrollment report.~~
   ~~d.~~ The personnel report forms for licensed and nonlicensed employees.
2. On or before December fifteenth, each school district shall file with the superintendent of public instruction the taxable valuation and mill levy certifications. If a district fails to file the taxable valuation and mill levy certifications by the required date, the superintendent of public instruction may not forward to the district any state aid payments to which the district is entitled, until the taxable valuation and mill levy certifications are filed.

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

Weighted average daily membership - Determination.

1. For each school district, the superintendent of public instruction shall multiply by:
   a. 1.00 the number of students enrolled in a migrant summer program;
   b. 1.00 the number of students enrolled in an extended educational program in accordance with section 15.1-32-17;
   c. 0.60 the number of students enrolled in a summer education program;
   d. 0.50 the number of students enrolled in a home-based education program and monitored by the school district under chapter 15.1-23;
   e. 0.50 the number of students enrolled in a kindergarten program serving at-risk kindergarten students in accordance with section 3 of this Act;
   f. 0.25 the number of students enrolled in an alternative high school;
   g. 0.25 the number of students enrolled in an isolated elementary school;
   h. 0.25 the number of students enrolled in an isolated high school;
   i. 0.23 the number of students enrolled in an English language learner program and having preliterate English language skills and a proficiency level of I;
   j. 0.23 the number of students enrolled in an English language learner program and having beginning English language skills and a proficiency level of II;
   k. 0.20 the number of students attending school in a bordering state in accordance with section 15.1-29-01;
   l. 0.17 the number of students enrolled in an early childhood special education program; and
   m. 0.067 the number of students enrolled in average daily membership, in order to support the provision of special education services.
2. The superintendent of public instruction shall determine each school district's weighted average daily membership by adding the products derived under subsection 1 to the district's average daily membership.

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

School district size weighting factor - Weighted student units.

1. For each high school district in the state, the superintendent of public instruction shall assign a school district size weighting factor of:

a. 1.25 if the students in average daily membership number fewer than 185;

b. 1.24 if the students in average daily membership number at least 185 but fewer than 200;

c. 1.23 if the students in average daily membership number at least 200 but fewer than 215;

d. 1.22 if the students in average daily membership number at least 215 but fewer than 230;

e. 1.21 if the students in average daily membership number at least 230 but fewer than 245;

f. 1.20 if the students in average daily membership number at least 245 but fewer than 260;

g. 1.19 if the students in average daily membership number at least 260 but fewer than 270;

h. 1.18 if the students in average daily membership number at least 270 but fewer than 275;

i. 1.17 if the students in average daily membership number at least 275 but fewer than 280;

j. 1.16 if the students in average daily membership number at least 280 but fewer than 285;

k. 1.15 if the students in average daily membership number at least 285 but fewer than 290;

l. 1.14 if the students in average daily membership number at least 290 but fewer than 295;

m. 1.13 if the students in average daily membership number at least 295 but fewer than 300;

n. 1.12 if the students in average daily membership number at least 300 but fewer than 305;

o. 1.11 if the students in average daily membership number at least 305 but fewer than 310;

p. 1.10 if the students in average daily membership number at least 310 but fewer than 320;

q. 1.09 if the students in average daily membership number at least 320 but fewer than 335;

r. 1.08 if the students in average daily membership number at least 335 but fewer than 350;

s. 1.07 if the students in average daily membership number at least 350 but fewer than 360;

t. 1.06 if the students in average daily membership number at least 360 but fewer than 370;

u. 1.05 if the students in average daily membership number at least 370 but fewer than 380;

v. 1.04 if the students in average daily membership number at least 380 but fewer than 390;

w. 1.03 if the students in average daily membership number at least 390 but fewer than 400;

x. 1.02 if the students in average daily membership number at least 400 but fewer than 600;

y. 1.01 if the students in average daily membership number at least 600 but fewer than 900; and

z. 1.00 if the students in average daily membership number at least 900.

2. For each elementary district in the state, the superintendent of public instruction shall assign a weighting factor of:

a. 1.25 if the students in average daily membership number fewer than 125;

b. 1.17 if the students in average daily membership number at least 125 but fewer than 200; and

c. 1.00 if the students in average daily membership number at least 200.

3. The school district size weighting factor determined under this section and multiplied by a school district's weighted average daily membership equals the district's weighted student units.

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

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

15.1-27-04. Per student payment rate.

1. a. The per student payment rate to which each school district is entitled for the first year of the biennium is ~~two~~ three thousand ~~seven hundred sixty-five~~ forty-two dollars.

   b. The per student payment rate to which each school district is entitled for the second year of the biennium is ~~two~~ three thousand ~~eight~~ one hundred ~~seventy-nine~~ forty 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.~~

2. In order to determine the state aid payment to which each district is entitled, the superintendent of public instruction shall multiply each district's weighted student units by the per student payment rate set forth in subsection 1.

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

Baseline funding - Determination - Minimum and maximum allowable increases.

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

   a. Adding together all state aid received by the district during the 2006-07 school year;

   b. Subtracting the amount received by the district during the 2006-07 school year for transportation aid, special education excess cost reimbursements, special education contracts, prior year funding adjustments, and per student

payments for participation in educational associations governed by joint powers agreements; and

c. Dividing the amount determined under subdivision b by the district's 2007-08 weighted student units.

2. a. The superintendent of public instruction shall ensure that the total amount of state aid payable to a district per weighted student unit, for the 2007-08 school year, is at least equal to one hundred two percent of the baseline funding per weighted student unit, as established in subsection 1.

b. The superintendent of public instruction shall ensure that the total amount of state aid payable to a district per weighted student unit, for each school year after the 2007-08 school year, is at least equal to one hundred three percent of the baseline funding per weighted student unit, as established in section 1.

3. a. The superintendent of public instruction shall ensure that the total amount of state aid payable to a district per weighted student unit, less any amount received as equity payments under section 15.1-27-11 per weighted student unit, does not exceed, for the 2007-08 school year, one hundred seven percent of the baseline funding per weighted student unit, as established in subsection 1.

b. Beginning with the 2008-09 school year, the maximum percentage of allowable growth in the baseline funding per weighted student unit set forth in subdivision a must be annually increased by three percentage points, plus the district's share of any increased state aid for that year.

SECTION 11. AMENDMENT. Section 15.1-27-08 of the North Dakota Century Code is amended and reenacted as follows:

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

1. If a high school becomes unaccredited, the superintendent of public instruction shall determine the per student payment to which the school district is entitled during the first year in which the high school is unaccredited ~~is the amount established in section 15.1-27-04. The school district is not entitled to the amount that results from applying the weighting factors provided in section 15.1-27-06. In each successive year, the per student payment to which the school district is~~

~~entitled for each student in the unaccredited high school must be reduced by an additional two hundred dollars.~~ by:

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

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

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

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

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

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

3. If the high school remains unaccredited for a third year, and each year thereafter, the superintendent of public instruction shall determine the per student payment to which the school district is entitled as provided in subsection 2, and the superintendent shall reduce the payment for each student as provided in subdivision c of subsection 2 by two hundred dollars each year.

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

SECTION 12. AMENDMENT. Section 15.1-27-09 of the North Dakota Century Code is amended and reenacted as follows:

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

1. If an elementary school becomes unaccredited, the superintendent of public instruction may not reduce the per student payment to which the school district is entitled during the first year in which the school is unaccredited.

2. If ~~a~~ an elementary school ~~district operates an~~ remains unaccredited ~~elementary school, the per student payment to which the school district is entitled during the first year in which the elementary school is unaccredited is the amount established in section 15.1-27-04. The school district is entitled to the amount that results from applying the weighting factors provided in section 15.1-27-07. In each successive~~ for a second year, the superintendent of public instruction shall reduce the per student payment to which the school district is entitled for each student in average daily membership in the unaccredited elementary school ~~must be reduced~~ by ~~an additional~~ two hundred dollars.

3. If the elementary school remains unaccredited for a third year, and each year thereafter, the superintendent of public instruction shall reduce the payment for each student as provided in subsection 2 by two hundred dollars each year.

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

SECTION 13. AMENDMENT. Section 15.1-27-10 of the North Dakota Century Code is amended and reenacted as follows:

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

1. ~~Except as provided in subsection 2, each biennium the superintendent of public instruction shall distribute moneys appropriated by the legislative assembly for per student special education payments to each school district in the state on the basis of students in average daily membership. The superintendent of public instruction shall forward the payments, as calculated under section 15.1-27-05, to eligible school districts in the same manner and at the same time that the superintendent distributes state aid payments. For purposes of this section, "special education" means the provision of special services to students who have special needs, including students who are gifted and talented. Expenditures under this section~~

~~may not conflict with nonsupplanting and maintenance of effort provisions under the Individuals With Disabilities Education Act, 20 United States Code 1400 et seq.~~

~~2.~~ Upon the written request of a school district, the superintendent of public instruction may forward all or a portion of ~~the moneys~~ any per student special education payments to which ~~the~~ a school district is entitled ~~under this section~~ directly to the special education unit of which the school district is a member.

~~3.~~ 2. The superintendent of public instruction may withhold state special education funds due a school district if, in response to a complaint, the superintendent finds that the district is not providing a free appropriate public education to a student as required by law. Any withholding under this subsection may not exceed an amount equal to the cost of meeting the affected student's needs.

SECTION 14. AMENDMENT. Section 15.1-27-11 of the North Dakota Century Code is amended and reenacted as follows:

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

1. The superintendent of public instruction shall ~~calculate the average valuation of property per student by dividing the number of students in average daily membership in grades one through twelve in a high school district into the sum of:~~

   ~~a. The district's latest available net assessed and equalized taxable valuation of property; plus~~

   ~~b. All tuition payments and county revenue received by the district, divided by the total of the district's general fund levy, high school transportation levy, and high school tuition levy.~~

~~2. The superintendent of public instruction shall verify that:~~

   ~~a. The quotient arrived at under subsection 1 is less than the latest available statewide average taxable valuation per student;~~

   ~~b. The district's educational expenditure per student is below the most recent available statewide average cost of education per student;~~

   ~~c. The district has a general fund levy of at least one hundred eighty mills; and~~

   ~~d. The district's unobligated general fund balance on the preceding June thirtieth is not in excess of thirty-five percent of its actual expenditures, plus twenty thousand dollars.~~

~~3. If the superintendent of public instruction determines that the district meets all the requirements of subsection 2, the superintendent shall:~~

~~a. Determine the difference between the latest available statewide average taxable valuation per student and the average taxable valuation per student in the high school district;~~

~~b. Multiply the result determined under subdivision a by the number of students in average daily membership in grades one through twelve in the high school district;~~

~~c. Multiply the result determined under subdivision b by the number of general fund mills levied by the district in excess of one hundred fifty, provided that any mills levied by the district which are in excess of two hundred ten may not be used in this calculation; and~~

~~d. Multiply the result determined under subdivision c by a factor calculated by the superintendent of public instruction to result in the expenditure, over the course of the biennium, of the full amount provided for the purpose of this section.~~

~~4. The result of the calculations under this section is the supplemental payment to which a high school district is entitled, in addition to any other amount provided under chapter 15.1-27.~~:

a. Divide the imputed taxable valuation of the state by the total average daily membership of all school districts in the state in order to determine the state average imputed taxable valuation per student.

b. Divide the imputed taxable valuation of each school district by the district's total average daily membership in order to determine each district's average imputed taxable valuation per student.

2. If a school district's imputed taxable valuation per student is less than ninety percent of the statewide imputed taxable valuation per student, the superintendent of public instruction shall calculate the valuation deficiency by:

a. Determining the difference between ninety percent of the state average imputed taxable valuation per student and the district's average imputed taxable valuation per student; and

b. Multiplying that difference by the district's total average daily membership.

3. Except as provided in subsection 4, the equity payment to which a district is entitled under this section equals the district's valuation deficiency multiplied by the lesser of:

a. The district's general fund mill levy; or

b. One hundred eighty-five mills.

4. a. The equity payment to which a district is entitled may not exceed the district's taxable valuation multiplied by its general fund mill levy.

b. If a district's general fund levy is less than one hundred eighty-five mills, the superintendent of public instruction shall subtract the district's general fund mill levy from one hundred eighty-five mills, multiply the result by the district's taxable valuation, and subtract that result from the equity payment to which the district is otherwise entitled.

c. If a district's imputed taxable valuation per student is less than fifty percent of the statewide imputed taxable valuation per student, the payment to which the district is entitled under this section may not be less than twenty percent of the statewide imputed taxable valuation per student times the school district's average daily membership, multiplied by one hundred eighty-five mills.

5. For purposes of this section:

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

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

c. "Mineral revenue" includes all revenue from county sources 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.

d. "Tuition revenue" includes all revenue 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. "Tuition revenue" does not include tuition income received specifically for the operation of an educational program provided at a residential treatment facility.

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

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

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

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

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

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

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

15.1-27-16. Per student payments - Cooperating districts. If~~, on or after July 1, 1997,~~ any school district receiving payments under this chapter cooperates with another school district for the joint provision of educational services under a plan approved by the superintendent of public instruction, ~~each cooperating district is entitled~~ the superintendent of public instruction shall, notwithstanding the provisions of section 8 of this Act, create and assign a separate weighting factor that allows the cooperating districts to receive, for a period of four

years, ~~at least the same per student payment for each high school and elementary student as the district received prior to initiation~~ a payment rate equivalent to that which each district would have received had the cooperative plan not taken effect. The superintendent of public instruction shall compute the separate weighting factor to four decimal places and that weighting factor is effective for the duration of the cooperative plan.

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

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

1. ~~If any school district receiving per student payments calculated under section 15.1-27-06 reorganized with another school district under chapter 15.1-12 before August 1, 1997, the school district resulting from the reorganization is entitled to receive the same per student payments for each high school student as each separate school district received for each high school student prior to the reorganization, for a period of four years.~~

~~2.~~ ~~If any school district receiving per student payments calculated under this chapter reorganizes with another school district under chapter 15.1-12 after July 31, 1997, the school district resulting from the reorganization is entitled~~ Notwithstanding the provisions of section 8 of this Act, the superintendent of public instruction shall create and assign a separate weighting factor to:

   a. Any school district that reorganized on or before June 30, 2007, and which was receiving per student payments in accordance with section 15.1-27-17, as that section existed on June 30, 2007; and

   b. Any school district that reorganizes on or after July 1, 2007.

2. a. The separate weighting factor must allow the reorganized school district to receive ~~the same per student payments for each high school and elementary student as~~ a payment rate equivalent to that which each separate school district would have received ~~for each high school and elementary student prior to the reorganization, for a period of four years~~ had the reorganization not taken place.

   b. The separate weighting factor must be computed to four decimal places.

c. The provisions of this subsection are effective for a period of four years from the date of the reorganization.

3. ~~The weighting factor for each district will be adjusted proportionately over a period of two years, following the period of time provided in subsection 1 or 2, until the adjusted weighting factor equals the weighting factor for the combined enrollment resulting from the reorganization.~~ At the beginning of the fifth and at the beginning of the sixth years after the date of the reorganization, the superintendent of public instruction shall make proportionate adjustments in the assigned weighting factor so that beginning with the seventh year after the date of the reorganization, the weighting factor that will be applied to the reorganized district is that provided in section 8 of this Act.

~~4. Notwithstanding the provisions of any other law, no school district may receive less in per student payments for the first year of its reorganization than the total amount that the districts participating in the reorganization received in per student payments for the school year immediately preceding the reorganization. If less than a whole school district participated in a reorganization, the superintendent of public instruction shall prorate the payments to which the newly reorganized district is entitled under this subsection.~~

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

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

1. In order to be counted for the purpose of calculating per student payments, as provided for by this chapter, a high school student must be enrolled in at least four high school units. The units may include career and technical education courses offered in accordance with chapter 15-20.1 and courses that are approved by the superintendent of public instruction and offered by another high school district.

2. If a student is enrolled for graduation in a nonpublic school or if a student is taking fewer than four high school units and is enrolled in an approved alternative high school education program, the school district in which the student is enrolled is entitled to receive proportionate payments.

~~3. Each high school district must receive at least as much in total per student payments as it would have received if it had the highest number of students in the next lower weighting category.~~

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

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

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

2. ~~A school district that offers remedial~~ Before a weight may be assigned under section 7 of this Act for a student enrolled in an elementary summer ~~school programs at the elementary level is entitled to receive proportionate payments provided the programs comply~~ program, the superintendent of public instruction shall verify that the program complies with rules adopted by the superintendent of public instruction.

~~3. The superintendent of public instruction may adopt rules regarding proportionate payments for remedial summer school programs at the elementary level and summer school courses at the high school level.~~

~~4. Proportionate payments made under this section during a biennium for summer school courses or programs may not exceed one and one-half percent of the total amount appropriated by the legislative assembly for state aid payments during the biennium, or eight million dollars, whichever is less. No more than seventy-five percent of the amount made available under this subsection may be used to support summer school courses at the high school level and no more than twenty-five percent of the amount made available under this subsection may be used to support remedial summer school programs at the elementary level.~~

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

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

1. ~~Upon the completion of student registration and in no event later than September tenth of each year, the business manager of a school district claiming payments from state funds under the provisions of this chapter shall file a claim in the form and manner prescribed by the superintendent of public instruction. The business manager must provide the number of registered high school and elementary school students for whom payments are claimed and any other information requested by the superintendent of public instruction.~~

~~2. The superintendent of public instruction shall compute the per student payments on the basis of the previous year's average daily membership less the number of students attending school during the current school year in another district under the provisions of open enrollment or the current year's fall enrollment, whichever provides the greater total payment. The superintendent shall make adjustments in the subsequent year according to a comparison between the average daily membership for the year for which the adjusted payment is being made and the year preceding the year for which the adjusted payment is being made, whichever is greater, for grade levels that existed in both years. The greater of the two preceding years' average daily membership must be used in computing any adjustment in a district's per student aid payments.~~

~~3. School districts educating children of agricultural migratory workers and school districts offering approved summer courses during the months of June, July, and August are not restricted to payments for a one hundred eighty-day school term.~~

~~4. Upon termination of the school year, the business manager of each school district that has received payments from state funds under the provisions of this chapter shall file with the school board a verified statement of the name, residence, and membership of each student and the units of high school work taken by each enrolled student.~~

~~5. On or before June thirtieth of each year, the school board shall certify to the superintendent of public instruction, in the form and manner prescribed by the~~

~~superintendent, the students in average daily membership for the recently completed school year. The superintendent shall notify the school district of any student average daily membership that is disallowed.~~

~~6.~~ ~~A~~ Any school district claiming state aid payments under this chapter shall provide to the superintendent of public instruction, at the time and in the manner requested by the superintendent, all information necessary for the processing of the claim.

2. If the superintendent of public instruction denies a district's claim for state aid payments, in whole or in part, the district may appeal the determination of the superintendent by ~~submitting a written appeal to~~ filing a written notice with the superintendent ~~of public instruction on or before September fifteenth of the year in which the~~, within thirty days from the date on which the district received the original determination ~~is made~~. The superintendent of public instruction may modify the original determination if the evidence submitted by the district justifies a modification. Upon appeal, or ~~in a case when no~~ if a timely appeal is not made, the determination of the superintendent ~~of public instruction~~ is final.

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

General fund levy - Impact on state aid.

1. If in the first year of the 2007-09 biennium the general fund levy of a school district is less than one hundred fifty-five mills, the superintendent of public instruction shall:
   a. Determine the difference in mills between the district's general fund levy and one hundred fifty-five;
   b. Multiply the difference in mills determined under subsection 1 by the district's total taxable valuation; and
   c. Subtract the dollar amount determined under subsection 2 from the total amount of state aid to which the district is otherwise entitled.
2. If in the second year of the 2007-09 biennium and each year thereafter, the general fund levy of a school district is less than one hundred sixty mills, the superintendent of public instruction shall:

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

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

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

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

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

1. Determine the difference between the district's imputed taxable valuation per student and one hundred fifty percent of the state average imputed taxable valuation per student;
2. Multiply the dollar amount determined under subsection 1 by the district's average daily membership;
3. Multiply the dollar amount determined under subsection 2 by one hundred eighty-five mills;
4. Multiply the dollar amount determined under subsection 3 by a factor of 0.75; and
5. Subtract the dollar amount determined under subsection 4 from the total amount of state aid to which the district is otherwise entitled.

SECTION 23. 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 days that each student in a given ~~classroom~~ grade, school, or school district is in attendance during a school calendar and the total number of days that each student in a given ~~classroom~~ grade, school, or school district is absent during a school calendar, and then dividing the sum by ~~one~~ the greater of:

   a. The school district's calendar; or

b. One hundred eighty.

2. For purposes of calculating average daily membership, all students are deemed to be in attendance on:

~~1.~~ a. The three holidays listed in subdivisions b through j of subsection 1 of section 15.1-06-02 and selected by the school board in consultation with district teachers;

~~2.~~ b. The two days set aside for professional development activities under section 15.1-06-04; and

~~3.~~ c. The two full days, or portions thereof, during which parent-teacher conferences are held or which are deemed by the board of the district to be compensatory time for parent-teacher conferences held outside regular school hours.

3. 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 0.50. The membership may be prorated for a student who is enrolled less than full time.

c. A student enrolled full time 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.

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

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

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

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

SECTION 26. AMENDMENT. Section 15.1-28-03 of the North Dakota Century Code is amended and reenacted as follows:

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

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

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

1. ~~Students~~ A student may attend ~~a~~ school in a bordering state in accordance with section 15.1-29-02 ~~under the following circumstances~~ provided:
   a. (1) ~~A~~ The student ~~who~~ lives within forty miles [64.37 kilometers] of another state; or
      (2) The student lives in a county bordering on another state ~~may, with the~~; and

b. The student has received approval ~~of~~ from the ~~school~~ board~~, attend a public school in a bordering state.~~

~~b. A student who has attended a school district in a bordering state since, and including, the 1990-91 school year must be permitted to continue attending school in the district in the bordering state.~~

~~c. A student whose sibling attended an out-of-state school during or before the 1990-91 school year must be permitted to attend school in the district the sibling attended in the bordering state~~ of the student's school district of residence.

2. If the school board of the district in which the student resides denies a request for a student's attendance in and payment of tuition to another state, the student's parent may appeal the decision to the three-member committee referenced in section 15.1-29-06.

a. If the three-member committee determines that the student meets the terms of subdivision b or c of subsection 1, the student may attend school in the bordering state and the board of the student's school district of residence shall pay the tuition.

b. If the three-member committee determines the student falls within the terms of subdivision a of subsection 1, then the three-member committee shall make its decision using the criteria specified in section 15.1-29-06.

c. Notwithstanding the provisions of this section, if a student's school district of residence does not provide for the education of kindergarten students, the district may not pay tuition for a kindergarten student to attend school in a bordering state.

d. Any decision by the three-member committee regarding the payment of tuition for high school, elementary, or kindergarten students may be appealed by the school board or by the student's parent to the state board of public school education. A decision by the state board is final.

3. ~~a. The superintendent of public instruction shall forward all state aid payments for a~~ A student attending an out-of-state school ~~to~~ under this section is

deemed to be enrolled in the student's school district of residence for purposes of determining average daily membership.

~~b.~~ The student's district of residence may reduce any tuition payment it must make to an out-of-state school by an amount commensurate with the tuition costs the district would be entitled to receive as compensation for a student from the out-of-state district enrolled in its school.

4. Nothing in this section requires that a school district of residence provide student transportation or payments in lieu of transportation for students attending out-of-state schools.

SECTION 28. AMENDMENT. Section 15.1-29-02 of the North Dakota Century Code is amended and reenacted as follows:

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

1. A school district may contract with a school district in a bordering state for the education of students. A contract between school districts must provide for the payment of tuition at an agreed-upon amount.

2. ~~For purposes of per student payments and tuition apportionment payments, a~~ A student who attends school in a bordering state under a contract provided for by this section is deemed to be in attendance in the student's school district of residence. The student's school district of residence is liable to the school district of the bordering state for payments as provided in the contract.

3. A school district in this state may not agree to accept ~~students~~ a student from a bordering state unless the tuition payable equals or exceeds the ~~per student payment plus the tuition apportionment payment~~ amount of state aid that the district would have received from this state for a student in the same grade if ~~its~~ that student had been attending school in the bordering state.

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

15.1-29-12. Tuition payments - Determination.

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

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

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

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

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

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

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

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

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

1. a. Except as provided in subdivision b, for purposes of applying this chapter, a student's school district of residence is the district in which the student's custodial parent or legal guardian resides:

(1) At the time that a state court, tribal court, juvenile supervisor, or the division of juvenile services issues an order requiring the student to stay for a prescribed period at a state-licensed foster home or at a state-licensed child care home or facility;

(2) At the time a county or state social service agency places the student, with the consent of the student's parent or legal guardian, at a state-licensed foster home or at a state-licensed child care home or facility;

(3) At the time the student is initially placed in a state-operated institution, even if the student is later placed at a state-licensed foster home or at a state-licensed child care home or facility; or

(4) At the time the student is placed voluntarily, by a parent or legal guardian, in a state-operated institution or in a state-licensed child care home, facility, or program, located outside the student's school district of residence, including those defined in sections 25-01.2-01 and 50-11-00.1.

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

2. The student's school district of residence is obligated to pay:

a. All charges for tuition upon claim of the admitting district; and

b. All charges for tutoring services upon claim of an admitting facility, provided that the tutoring services are delivered by an individual who is licensed to

teach by the education standards and practices board or approved to teach by the education standards and practices board.

3. The state shall pay the tuition and tutoring charges under subsection 2 from funds appropriated by the legislative assembly for state aid to schools if, on the September fifteenth after a student placement is made as provided for under subsection 1:

   a. The student's custodial parent or legal guardian establishes residency outside this state;

   b. A court orders a termination of parental rights with respect to the student's parents;

   c. The student no longer has a custodial parent; or

   d. The superintendent of public instruction has determined that all reasonable efforts to locate a parent or legal guardian have been unsuccessful.

4. If the student is voluntarily admitted to a state-licensed child care home or facility, or to a state-operated institution, the student's parent or, if one has been appointed, the student's legal guardian may appeal a determination under section 15.1-29-05 regarding the payment of tuition by filing a petition with the county superintendent of schools. Within fifteen days of receiving the petition, the three-member committee established under section 15.1-29-06 shall consult with the boards of the affected school districts and with the student's parent or legal guardian and render a decision regarding responsibility for the payment of tuition charges.

5. If the student's district of residence does not pay the required tuition, the admitting district or facility shall notify the superintendent of public instruction. Upon verification that tuition payments <u>and tutoring charges</u> are due and unpaid, the superintendent shall withhold an amount equal to the unpaid tuition <u>and tutoring charges</u> from state aid otherwise payable to the student's school district of residence until the tuition <u>and tutoring charges that are</u> due ~~has~~ <u>have</u> been fully paid.

6. An amount equal to the state average per student elementary or high school cost, depending on the student's grade of enrollment, is payable to the admitting district

or facility as part of the cost of educating the student for the school year. The payment may not exceed the actual per student cost incurred by the admitting district or facility. The remainder of the actual cost of educating the student not covered by other payments or credits must be paid by the state, within the limits of legislative appropriations, from funds appropriated for the payment of special education contract charges in the case of a student with disabilities or from state aid payments to schools in all other cases.

7. If a student with disabilities placed in accordance with this section reaches age eighteen and continues to receive special education and related services, the student's school district of residence is deemed to be the same as that of the student's custodial parent until the special education services are concluded. The obligations of the student's school district of residence as provided in subsection 2 and the obligations of the state as provided in subsection 3 are applicable to all students described in this subsection.

8. a. The placing agency or entity funding the student's placement shall provide written or electronic notice regarding an initial placement and all subsequent placements of a student to the superintendent of the student's school district of residence and to the superintendent of the admitting district:

   (1) Within five working days after a placement is made under court order;

   (2) Within five working days after an emergency placement is made; or

   (3) At least ten working days prior to any other placement.

   b. If, however, the student's parent or legal guardian voluntarily places the student in a state-operated institution or in a state-licensed child care home, facility, or program, located outside the student's school district of residence, including those defined in sections 25-01.2-01 and 50-11-00.1, and if the placement is privately funded, the administrator of the facility or program in which the student is placed shall determine the student's school district of residence and provide the notification required by this section.

   c. The notice must include any information requested by the superintendent of public instruction for purposes of determining payment responsibility.

d. The placing agency shall afford the student's school district of residence reasonable opportunity to participate in permanency planning for the student.

9. Notwithstanding this section, educational services provided to a student by the youth correctional center are not subject to the payment of tuition and tutoring charges by either the student's school district of residence or the superintendent of public instruction.

10. For purposes of this section, "custodial parent" means the parent who has been awarded sole legal and physical custody of the student in a legal proceeding or, if there is currently no operative custody order, the parent with whom the student resides. If the student resides with both parents, then both are custodial parents.

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

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

SECTION 32. AMENDMENT. Section 15.1-31-03 of the North Dakota Century Code is amended and reenacted as follows:

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

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

2. ~~Payment for per student aid must be made to the admitting district in accordance with chapter 15.1-27.~~

~~3.~~ ~~For purposes of tuition apportionment payments, a~~ A student whose application is approved under this section is considered a resident of the admitting district.

~~4.~~ 3. Except as specifically provided in this chapter, chapter 15.1-29 does not apply to students involved in open enrollment.

SECTION 33. AMENDMENT. Section 15.1-31-04 of the North Dakota Century Code is amended and reenacted as follows:

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

SECTION 34. AMENDMENT. Section 15.1-31-07 of the North Dakota Century Code is amended and reenacted as follows:

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

SECTION 35. AMENDMENT. Section 15.1-32-08 of the North Dakota Century Code is amended and reenacted as follows:

15.1-32-08. School districts - Provision of special education. Each school district shall provide special education~~, singly or jointly with other districts,~~ and related services as a single district, as a member of a multidistrict special education unit in accordance with ~~this~~ chapter 15.1-33, or as a participating district in an educational association approved by the superintendent of public instruction under section 15.1-07-28. Each school district and entity

providing special education shall cooperate with the director of special education and with the institutions of this state in the provision of special education.

SECTION 36. AMENDMENT. Section 15.1-32-14 of the North Dakota Century Code is amended and reenacted as follows:

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

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

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

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

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

~~(1)~~ a. Does not belong to the same special education unit;

~~(2)~~ b. Is located in this state;

~~(3)~~ c. Is willing to admit the student; and

~~(4)~~ d. Is able to provide appropriate services to the student.

~~b.~~ 2. The superintendent of public instruction shall approve in advance the terms of the contract and the services to be provided by the admitting school.

~~c.~~ 3. The contract must provide that the student's school district of residence ~~agrees to pay to the district in which the student receives services, as part of~~ is liable for the cost of educating the student ~~for the school year, an amount equal to two and one-half times the state average per student elementary or high school cost, depending upon the student's level of enrollment, plus twenty percent of all remaining costs. The amount paid may not exceed the actual per student cost incurred by the admitting school, less any per student payment received on behalf of the student under this section.~~

~~d. The liability of the student's school district of residence must be reduced proportionately if the student attends the admitting school for less than an entire school year~~.

~~e.~~ 4. Upon being notified by the district in which the student receives services that ~~tuition payments provided for by this section are due and unpaid~~ the student's school district of residence has not paid for services that were provided to the student, the superintendent of public instruction, after verification, shall withhold all state aid payments to which the student's school district of residence is entitled, until the ~~tuition due has been paid.~~

~~f. The superintendent of public instruction shall provide to the school district in which the student receives services, within the limits of legislative appropriations, an amount equal to eighty percent of the remainder of the actual cost of educating the student with disabilities not covered by other payments or credits~~ required payments have been made.

SECTION 37. AMENDMENT. Section 15.1-32-15 of the North Dakota Century Code is amended and reenacted as follows:

15.1-32-15. Student with disabilities - Attendance at private institution or out-of-state public school.

1. If in the opinion of an individualized education program team or an education services team a student is unable to attend a public school in the student's school district of residence because of a physical disability, a mental disability, or a learning disability, and if no public school in the state will accept the student and

provide the necessary services, the student's school district of residence shall contract with:

a. A private, accredited, nonsectarian, nonprofit institution that is located within or outside of this state and which has the proper facilities for the education of the student; or

b. A public school located outside of this state that has proper facilities for the education of the student.

2. The superintendent of public instruction shall approve in advance the terms of the contract and the services to be provided by the admitting institution or school.

3. The contract must provide that the student's school district of residence ~~shall pay to the institution or school, as part of~~ is liable for the cost of educating the student~~, an amount for the school year equal to two and one-half times the state average per student elementary or high school cost, depending upon the student's level of enrollment, plus twenty percent of all remaining costs.~~

~~4. The amount paid may not exceed the actual per student cost incurred by the institution or school.~~

~~5. The superintendent of public instruction shall provide to the student's school district of residence, within the limits of legislative appropriations, an amount equal to eighty percent of the remainder of the actual cost of educating the student with disabilities not covered by other payments or credits.~~

~~6. The school district of residence is entitled to the per student payment for a student who receives services under this section~~.

4. A student who receives services under this section is deemed to be enrolled in the student's school district of residence for purposes of determining average daily membership.

SECTION 38. AMENDMENT. Section 15.1-32-16 of the North Dakota Century Code is amended and reenacted as follows:

15.1-32-16. Transportation services ~~- State reimbursement~~. If a student's individualized education program or services plan requires the provision of transportation services, the student's school district of residence shall provide the services by any reasonably prudent means, including a regularly scheduled schoolbus, public transit, commercial

transportation, chartered or other contracted transportation, and transportation provided by the student's parent or other responsible party.

SECTION 39. AMENDMENT. Section 15.1-32-18 of the North Dakota Century Code is amended and reenacted as follows:

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

1. Each year the superintendent of public instruction shall identify the approximately one percent of special education students statewide who are not eligible for cost reimbursement under section 15.1-29-14 and who require the greatest school district expenditures in order to provide them with special education and related services. This percentage represents the number of students that would qualify for excess cost reimbursement beyond the multiplier that is established in subsection 3.
2. The excess costs of providing special education and related services to these students are the responsibility of the state and the superintendent of public instruction shall reimburse the school districts for any excess costs incurred in the provision of special education and related services to the identified students.
3. "Excess costs" are those that exceed four and one-half times the state average cost of education per student and which are incurred by the special education students identified in subsection 1.

4. All costs of providing special education and related services to those students identified in subsection 1, other than excess costs reimbursed by the state, are the responsibility of the student's school district of residence.

SECTION 40. AMENDMENT. Section 15.1-33-02 of the North Dakota Century Code is amended and reenacted as follows:

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

SECTION 41. AMENDMENT. Section 15.1-36-02 of the North Dakota Century Code is amended and reenacted as follows:

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

1. The board of university and school lands may authorize the use of moneys in the coal development trust fund established pursuant to section 21 of article X of the Constitution of North Dakota and subsection 1 of section 57-62-02 to provide school construction loans, as described in this chapter. The outstanding principal balance of loans under this chapter may not exceed ~~forty~~ fifty million dollars. The board may adopt policies and rules governing school construction loans.
2. In order to be eligible for a loan under this section, the board of a school district shall:
   a. Propose a construction project with a cost of at least one million dollars and an expected utilization of at least thirty years;
   b. Obtain the approval of the superintendent of public instruction for ~~its~~ the construction project under section 15.1-36-01; and

~~b.~~ c. Submit to the superintendent of public instruction an application containing all information deemed necessary by the superintendent, including potential alternative sources or methods of financing the construction project.

3. The superintendent of public instruction shall give priority to any district that meets the requirements for receipt of an equity payment under section 15.1-27-11.

4. If an eligible school district's imputed taxable valuation per student is less than eighty percent of the state average imputed valuation per student, the district is entitled to receive:

   a. A school construction loan equal to the lesser of eight million dollars or eighty percent of the actual project cost;

   b. An interest rate discount equal to at least fifty but not more than two hundred basis points below the prevailing tax-free bond rates; and

   c. A term of repayment that may extend up to twenty years.

5. If an eligible school district's imputed taxable valuation per student is equal to at least eighty percent but less than ninety percent of the state average imputed taxable valuation per student, the district is entitled to receive:

   a. A school construction loan equal to the lesser of seven million dollars or seventy percent of the actual project cost;

   b. An interest rate buydown equal to at least fifty but not more than two hundred basis points below the prevailing tax-free bond rates; and

   c. A term of repayment that may extend up to twenty years.

6. If an eligible school district's imputed taxable valuation per student is equal to at least ninety percent of the state average imputed taxable valuation per student, the district is entitled to receive:

   a. A school construction loan equal to the lesser of two and one-half million dollars or thirty percent of the actual project cost;

   b. An interest rate discount equal to at least fifty but not more than two hundred basis points below the prevailing tax-free bond rates; and

   c. A term of repayment that may extend up to twenty years.

7. The board of a school district may submit its loan application to the superintendent of public instruction before or after receiving authorization of a bond issue in

accordance with chapter 21-03. If the vote to authorize a bond issue precedes the application for a loan, the application must be acted upon by the superintendent expeditiously but no later than one hundred eighty days from the date it is received by the superintendent.

~~4.~~ 8. The superintendent of public instruction shall consider each loan application in the order it received approval under section 15.1-36-01.

~~5.~~ 9. If the superintendent of public instruction approves the loan, the superintendent may determine the loan amount~~. In determining the amount of a loan, the superintendent shall take into account the cost of the construction project and the fiscal capacity of the school district.~~

~~6. If the superintendent of public instruction approves the loan, the superintendent may determine the interest rate to be paid. The interest rate on a loan under this section may not exceed a rate of two percent below the net interest rate on comparable tax-exempt obligations as determined on the date the application is approved by the superintendent pursuant to section 15.1-36-01. The interest rate may not exceed six percent.~~

~~7. A school district may not receive a loan under this section unless the superintendent of public instruction determines that the district has an existing indebtedness equal to at least fifteen percent of its taxable valuation. In determining a school district's existing indebtedness, the superintendent shall include outstanding indebtedness authorized by an election under section 21-03-07 but not issued and indebtedness authorized to be paid with dedicated tax levies under subsection 7 of section 21-03-07 but not issued~~, the term of the loan, and the interest rate, in accordance with the requirements of this section.

~~8.~~ 10. The superintendent of public instruction may adopt rules governing school construction loans.

~~9.~~ 11. For purposes of this section, a construction project means the purchase, lease, erection, or improvement of any structure or facility by a school board, provided the acquisition or activity is within a school board's authority ~~and further provided that the acquisition or activity is estimated to cost in excess of fifty thousand dollars~~.

SECTION 42. A new section to chapter 15.1-36 of the North Dakota Century Code is created and enacted as follows:

School construction projects - Reorganized districts - Interest subsidy.

1. If under chapter 15.1-12 two or more school districts prepare a reorganization plan, agree in that plan to pursue a construction project, and obtain the approval of the superintendent of public instruction in accordance with this chapter, the newly reorganized district is eligible to receive up to three hundred basis points of interest rate buydown on the lesser of:
   a. Thirteen million five hundred thousand dollars; or
   b. A percentage of the total project cost determined by:
      (1) Allowing five percent for each school district that participated in the reorganization;
      (2) Allowing five percent for each one hundred-square-mile [259-square-kilometer] increment that is added to the square miles [kilometers] of the geographically largest district participating in the reorganization;
      (3) Allowing five percent for every ten students added to the enrollment of the district having the greatest number of enrolled students and participating in the reorganization; and
      (4) Capping the allowable percentage at ninety percent of the total project cost.
2. In addition to the requirements of subsection 1, the percentage of cost subsidy determined under subdivision b of subsection 1 must equal at least twenty percent of the total project cost.

SECTION 43. A new section to chapter 15.1-38 of the North Dakota Century Code is created and enacted as follows:

English language learner - Definition. English language learner means a student who:

1. Is at least five years of age but has not reached the age of twenty-two;
2. Is enrolled in a school district in this state;

3. Has a primary language other than English or comes from an environment in which a language other than English significantly impacts the individual's level of English language proficiency; and

4. Has difficulty speaking, reading, writing, and understanding English, as evidenced by a language proficiency test approved by the superintendent of public instruction and aligned to the state English language proficiency standards and the state language proficiency test.

SECTION 44. A new section to chapter 15.1-38 of the North Dakota Century Code is created and enacted as follows:

School district eligibility for payment. A school district is entitled to receive payment for a student who is an English language learner if:

1. a. The student has preliterate English language skills and a level I language proficiency classification, as determined by use of the Woodcock-Munoz language survey; or

   b. The student has beginning English language skills and a level II language proficiency classification, as determined by use of the Woodcock-Munoz language survey; and

2. The school district provides for the student a program of instruction that has been approved by the superintendent of public instruction.

SECTION 45. AMENDMENT. Section 57-15-14 of the North Dakota Century Code is amended and reenacted as follows:

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

1. In any school district having a total population in excess of four thousand according to the last federal decennial census:

   a. There may be levied any specific number of mills that upon resolution of the school board has been submitted to and approved by a majority of the

qualified electors voting upon the question at any regular or special school district election.

b. There is no limitation upon the taxes which may be levied if upon resolution of the school board of any such district the removal of the mill levy limitation has been submitted to and approved by a majority of the qualified electors voting at any regular or special election upon such question.

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

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

The question of authorizing or discontinuing such specific number of mills authority or unlimited taxing authority in any school district must be submitted to the qualified electors at the next regular election upon resolution of the school board or upon the filing with the school board of a petition containing the signatures of qualified electors of the district equal in number to twenty percent of the number of persons enumerated in the school census for that district for the most recent year such census was taken, unless such census is greater than four thousand in which case only fifteen percent of the number of persons enumerated in the school census is required. However, not fewer than twenty-five signatures are required unless the district has

fewer than twenty-five qualified electors, in which case the petition must be signed by not less than twenty-five percent of the qualified electors of the district. In those districts with fewer than twenty-five qualified electors, the number of qualified electors in the district must be determined by the county superintendent for such county in which such school is located. However, the approval of discontinuing either such authority does not affect the tax levy in the calendar year in which the election is held. The election must be held in the same manner and subject to the same conditions as provided in this section for the first election upon the question of authorizing the mill levy.

SECTION 46. NORTH DAKOTA COMMISSION ON EDUCATION IMPROVEMENT - MEMBERSHIP - DUTIES - REPORT TO LEGISLATIVE COUNCIL.

1. The North Dakota commission on education improvement consists of:
   a. (1) The governor or an individual designated by the governor, who shall serve as the chairman;
      (2) One individual, appointed by the governor, who is employed as the superintendent of a high school district having more than one thousand students in average daily membership;
      (3) One individual, appointed by the governor, who is employed as the superintendent of a high school district having more than two hundred twenty but fewer than one thousand students in average daily membership;
      (4) One individual, appointed by the governor, who is employed as the superintendent of a high school district having fewer than two hundred twenty students in average daily membership;
      (5) One individual, appointed by the governor, who is employed as a school district business manager;
      (6) The chairman of the senate education committee or the chairman's designee;
      (7) The chairman of the house education committee or the chairman's designee;
      (8) The senate minority leader or the leader's designee;
      (9) One legislator appointed by the chairman of the legislative council; and

(10) The superintendent of public instruction or an assistant superintendent designated by the superintendent of public instruction; and

b. One nonvoting member representing the North Dakota council of educational leaders, one nonvoting member representing the North Dakota education association, and one nonvoting member representing the North Dakota school boards association.

2. The commission shall establish its own duties and rules of operation and procedure, including rules relating to appointments, terms of office, vacancies, quorums, and meetings, provided that the duties and the rules do not conflict with any provisions of this section.

3. The commission shall examine the current system of delivering and financing public elementary and secondary education and shall develop recommendations addressing educational adequacy, the equitable distribution of state education funds, the allocation of funding responsibility between federal, state, and local sources, and any other matters that could result in the improvement of elementary and secondary education in the state.

4. The commission shall provide periodic reports to the governor and to the legislative council.

SECTION 47. USE OF NEW MONEY - TEACHER COMPENSATION INCREASES - REPORTS TO LEGISLATIVE COUNCIL.

1. During the 2007-09 biennium, the board of each school district shall use an amount equal to at least seventy percent of all new money received by the district for per student payments to increase the compensation paid to teachers and to provide compensation to teachers who begin employment with the district on or after July 1, 2007.

2. For purposes of this section, the superintendent of public instruction shall calculate the amount of new money received by a district during the 2007-09 biennium by:

a. Determining the total amount of state dollars received by each district during the 2005-07 biennium as per student payments, tuition apportionment payments, special education per student payments, and English language learner payments;

b. Determining the total amount of state dollars received by each district during the 2007-09 biennium as per student payments, provided that neither equity payments under section 15.1-27-11 nor contingency distributions are to be included in the total; and

c. Subtracting the amount arrived at under subdivision a from the amount arrived at under subdivision b.

3. School districts providing educational services under a cooperative agreement approved by the superintendent of public instruction must, for purposes of this section, be treated as a single district.

4. a. The provisions of this section do not apply to a school district if the board of the school district, after a public hearing at which public testimony and documentary evidence are accepted, determines in its discretion and by an affirmative vote of two-thirds of the members of the board that complying with the provisions of subsection 1 would place the school district in the position of having insufficient fiscal resources to meet the school district's other obligations.

b. Within ten days of the vote required by subdivision a, the school board shall notify the superintendent of public instruction of its action and shall file a report detailing the grounds for its determination and action.

c. The superintendent of public instruction shall report all notices received under this subsection to an interim committee designated by the legislative council.

SECTION 48. REPEAL. Sections 15.1-09-46, 15.1-27-05, 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, 15.1-27-37, and 15.1-27-38 of the North Dakota Century Code are repealed.

SECTION 49. APPROPRIATION - ELIGIBLE EDUCATIONAL ASSOCIATIONS.

1. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of $2,000,000, or so much of the sum as may be necessary, to the superintendent of public instruction for the purpose of providing payments to school districts that are members of eligible education associations, for the biennium beginning July 1, 2007, and ending June 30, 2009.

2. Each year of the biennium, the superintendent of public instruction shall distribute fifty percent of the money appropriated under subsection 1 to eligible school districts on a per student basis. The superintendent shall make the distribution at the same time and in the same manner as other state aid payments under section 15.1-27-01.

3. For purposes of this section, an "eligible educational association" is one that is governed by a joint powers agreement that the superintendent of public instruction has reviewed and verified as meeting the requirements of section 15.1-07-28.

SECTION 50. APPROPRIATION - AREA CAREER AND TECHNOLOGY CENTERS - ESTABLISHMENT GRANTS. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of $1,200,000, or so much of the sum as may be necessary, to the state board for career and technical education for the purpose of providing grants to assist with the establishment of two area career and technology centers, for the biennium beginning July 1, 2007, and ending June 30, 2009.

1. The state board for career and technical education shall award the grants based on a competitive application process and shall give consideration to the number of students that will be served and the number of career and technology education programs that will be made available to students.

2. The state board for career and technical education shall give preference to the application of an educational association governed by a joint powers agreement that has been reviewed by the superintendent of public instruction and verified as meeting the requirements of section 15.1-07-28.

3. The state board for career and technical education shall require that the recipient of any grant awarded under this section provide matching funds in an amount at least equal to twenty-five percent of the grant.

SECTION 51. APPROPRIATION - CAREER AND TECHNICAL EDUCATION PROGRAMS. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of $800,000, or so much of the sum as may be necessary, to the state board for career and technical education for the purpose of funding the cooperative delivery of career and technical education programs, for the biennium beginning July 1, 2007, and ending June 30, 2009.

SECTION 52. APPROPRIATION - SCHOOL DISTRICT - DEFERRED MAINTENANCE AND PHYSICAL PLANT IMPROVEMENT GRANTS.

1. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of $10,000,000, or so much of the sum as may be necessary, to the superintendent of public instruction for the purpose of awarding to school districts deferred maintenance and physical plant improvement grants, in accordance with the provisions of this section, for the biennium beginning July 1, 2007, and ending June 30, 2009.
2. If the office of management and budget determines by April 30, 2008, that the June 30, 2008, ending balance of the state general fund will be more than $30,000,000 in excess of the amount predicted by the office of management and budget at the conclusion of the 2007 legislative session, the superintendent of public instruction shall forward to each school district:
   a. Twenty thousand dollars; plus
   b. The school district's pro rata share of the remaining appropriation, calculated by using the latest available average daily membership of each school district.
3. If the general fund balance requirements of subsection 2 are not met and if the office of management and budget determines by April 30, 2009, that the June 30, 2009, ending balance of the state general fund will be more than $30,000,000 in excess of the amount predicted by the office of management and budget at the conclusion of the 2007 legislative session, the superintendent of public instruction shall forward to each school district:
   a. Twenty thousand dollars; plus
   b. The school district's pro rata share of the remaining appropriation, calculated by using the latest available average daily membership of each school district.
4. Each school district accepting funds under this section shall apply those funds toward deferred maintenance and physical plant improvements and shall, by June 30, 2010:
   a. Submit to the superintendent of public instruction documentation indicating the appropriate expenditure of the funds; or

b. Return the funds to the superintendent of public instructions for deposit in the general fund.

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

1. Use the first $1,000,000, or so much of that amount as may be necessary, to pay any state obligations in excess of the amount appropriated for special education contract charges;
2. Use the next $1,000,000, or so much of that amount as may be necessary, for the purpose of providing additional per student payments to school districts participating in educational associations that are governed by a joint powers agreement and which have been reviewed by the superintendent of public instruction and verified as meeting the requirements of section 15.1-07-28; and
3. The superintendent of public instruction shall use the remainder of the moneys to provide additional per student payments on a prorated basis according to the latest available average daily membership of each school district.

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

SECTION 55. EMERGENCY. Section 46 of this Act is declared to be an emergency measure.