

ELEMENTARY AND SECONDARY EDUCATION

CHAPTER 161

HOUSE BILL NO. 1169

(Representatives DeKrey, Drovdal, Grande, Thoreson)
(Senator G. Lee)

SUPERINTENDENT OF PUBLIC INSTRUCTION QUALIFICATIONS

AN ACT to amend and reenact section 15.1-02-01 of the North Dakota Century Code, relating to qualifications of the superintendent of public instruction.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-02-01 of the North Dakota Century Code is amended and reenacted as follows:

15.1-02-01. Superintendent of public instruction - Qualifications. The qualified electors of this state shall elect a superintendent of public instruction at the appropriate general election. The superintendent must be at least twenty-five years of age on the day of the election; and have the qualifications of an elector for that office; ~~and hold a valid North Dakota professional teaching license on the day of the election and~~ at all times during the superintendent's term of office.

Approved April 4, 2007
Filed April 5, 2007

CHAPTER 162**SENATE BILL NO. 2030**

(Legislative Council)
(Education Committee)

REGIONAL EDUCATION ASSOCIATIONS

AN ACT to create and enact a new section to chapter 15.1-09, chapter 15.1-09.1, and a new section to chapter 15.1-13 of the North Dakota Century Code, relating to authorization for prekindergarten programs, regional education associations, and student teaching requirements; to amend and reenact sections 12.1-06-05, 15.1-02-08, 15.1-07-23, 15.1-09-33, 15.1-32-08, and 15.1-33-02 of the North Dakota Century Code and section 28 of chapter 167 of the 2005 Session Laws, relating to the renouncement of criminal intent, accounting procedures, school district business managers, and contingent distributions of per student payments; to repeal sections 15.1-07-28, 15.1-07-30, 15.1-27-40, and 54-35-21 of the North Dakota Century Code, relating to criteria for and expenditures by educational associations governed by joint powers agreements and the no child left behind statutory committee; to provide for legislative council studies; to provide for a report to the legislative council; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁹² **SECTION 1. AMENDMENT.** Section 12.1-06-05 of the North Dakota Century Code, as amended by section 1 of Senate Bill No. 2262, as approved by the sixtieth legislative assembly, is amended and reenacted as follows:

12.1-06-05. General provisions.

1. The definition of an offense in sections 12.1-06-01 to 12.1-06-04 does not apply to another offense also defined in sections 12.1-06-01 to 12.1-06-04.
2. Whenever "attempt" or "conspiracy" is made an offense outside this chapter, it means attempt or conspiracy, as the case may be, as defined in this chapter.
3. a. Other than as provided in subsection 4, in a prosecution under section 12.1-06-01, it is an affirmative defense that, under circumstances manifesting a voluntary and complete renunciation of criminal intent, the defendant avoided the commission of the crime attempted by abandoning any criminal effort and, if mere abandonment was insufficient to accomplish such avoidance, by taking further and affirmative steps which prevented the commission thereof.

⁹² Section 12.1-06-05 was also amended by section 1 of Senate Bill No. 2262, chapter 121.

- b. Other than as provided in subsection 4, in a prosecution under section 12.1-06-03 or 12.1-06-04, it is an affirmative defense that, under circumstances manifesting a voluntary and complete renunciation of criminal intent, the defendant prevented the commission of the crime solicited or of the crime or crimes contemplated by the conspiracy.
 - c. A renunciation is not "voluntary and complete" within the meaning of this section if it is motivated in whole or in part by (1) a belief that a circumstance exists which increases the probability of detection or apprehension of the defendant or another participant in the criminal operation, or which makes more difficult the consummation of the crime, or (2) a decision to postpone the criminal conduct until another time or to substitute another victim, or another but similar objective.
4. An individual ~~under the age of twenty-one~~ is immune from prosecution under this chapter if:
- a. The individual voluntarily and completely renounced the individual's criminal intent;
 - b. The individual is a student enrolled in an elementary school, middle school, or a high school in this state or is enrolled at an institution of higher education in this state;
 - c. The offense would have resulted in:
 - (1) Harm to another student enrolled in an elementary school, middle school, or a high school in this state;
 - (2) Harm to another student enrolled in an institution of higher education in this state;
 - (3) Harm to an employee of a school district or a nonpublic school in this state; ~~or~~
 - ~~(3)~~ (4) Harm to an employee of an institution of higher education in this state; or
 - (5) Damage to a school building or school property of a school district in this state or property of an institution of higher education in this state; and
 - d. The renunciation was given to a law enforcement officer ~~or~~, to an administrator of a school or school district in this state, or to an official of an institution of higher education in this state before any harm to others or damage to property occurs.

SECTION 2. AMENDMENT. Section 15.1-02-08 of the North Dakota Century Code is amended and reenacted as follows:

15.1-02-08. Accounting and reporting system - Uniformity. The superintendent of public instruction shall implement a uniform system for the accounting, budgeting, and reporting of data for all school districts in the state and for all regional education associations governed by chapter 15.1-09.1. The

superintendent of public instruction shall designate the software standards to be used by the school districts and by the regional education associations in their accounting, budgeting, and reporting functions.

SECTION 3. AMENDMENT. Section 15.1-07-23 of the North Dakota Century Code is amended and reenacted as follows:

15.1-07-23. School district business manager - Bond. A Any person serving as a school district business manager shall furnish to the school board a bond in an amount to be fixed by the school board and equal to at least twenty-five percent of the maximum amount of money subject to the business manager's control at any one time. The bond must be conditioned for the faithful discharge of the business manager's duties, including the maintenance of accurate financial records and the safekeeping and deliverance of all school district property and funds that come into the business manager's control.

⁹³ **SECTION 4. AMENDMENT.** Section 15.1-09-33 of the North Dakota Century Code is amended and reenacted as follows:

15.1-09-33. School board - Powers. The board of a school district may:

1. Establish a system of free public schools for all children of legal school age residing within the district.
2. Organize, establish, operate, and maintain elementary, middle, and high schools.
3. Have custody and control of all school district property and, in the case of the board of education of the city of Fargo, have custody and control of all public school property within the boundaries of the Fargo public school district and to manage and control all school matters.
4. Acquire real property and construct school buildings and other facilities.
5. Relocate or discontinue schools and liquidate the assets of the district as required by law; provided no site may be acquired or building constructed, or no school may be organized, established, operated, maintained, discontinued, or changed in location without the approval of the state board of public school education if outside the boundary of the district.
6. Purchase, sell, exchange, and improve real property.
7. Lease real property for a maximum of one year except in the case of a career and technical education facility constructed in whole or in part with financing acquired under chapter 40-57, which may be leased for up to twenty years.
8. Exercise the power of eminent domain to acquire real property for school purposes.

⁹³ Section 15.1-09-33 was also amended by section 10 of Senate Bill No. 2214, chapter 293.

9. Purchase, sell, exchange, improve, and lease for up to one year, equipment, furniture, supplies, and textbooks.
10. Recruit or contract with others to recruit homes and facilities which provide boarding care for special education students.
11. Provide dormitories for the boarding care of special education students.
12. Insure school district property.
13. Independently or jointly with other school districts, purchase telecommunications equipment or lease a telecommunications system or network.
14. Provide for the education of students by another school district.
15. Contract with federal officials for the education of students in a federal school.
16. Prescribe courses of study in addition to those prescribed by the superintendent of public instruction or by law.
17. Adopt rules regarding the instruction of students, including their admission, transfer, organization, grading, and government.
18. Join the North Dakota high school activities association and pay membership fees.
19. Adopt alternative curricula for high school seniors who require fewer than four academic units.
20. Contract with, employ, and compensate school district personnel.
21. Contract with and provide reimbursement for the provision of teaching services by an individual certified as an instructor in the areas of North Dakota American Indian languages and culture by the education standards and practices board.
22. Suspend school district personnel.
23. Dismiss school district personnel.
24. Participate in group insurance plans and pay all or part of the insurance premiums.
25. Contract for the services of a district superintendent, provided that the contract, which may be renewed, does not exceed a period of three years.
26. Contract for the services of a principal.
27. Employ a an individual to serve as the school district business manager or contract with any person to perform the duties assigned to a school district business manager by law.

28. Suspend or dismiss a school district business manager for cause without prior notice.
29. Suspend or dismiss a school district business manager without cause with thirty days' written notice.
30. Defray the necessary and contingent expenses of the board.
31. Levy a tax upon property in the district for school purposes.
32. Amend and certify budgets and tax levies, as provided in title 57.
33. Pay dues allowing for the board to hold membership in city, county, state, and national organizations and associations.
34. Designate, at its annual meeting, a newspaper of general circulation as the official newspaper of the district.

SECTION 5. A new section to chapter 15.1-09 of the North Dakota Century Code is created and enacted as follows:

Prekindergarten program - Authorization - Support. The board of a school district may establish a prekindergarten program and may receive and expend any state moneys specifically appropriated for the program, any federal funds specifically appropriated or approved for the program, and any gifts, grants, and donations specifically given for the program.

SECTION 6. Chapter 15.1-09.1 of the North Dakota Century Code is created and enacted as follows:

15.1-09.1-01. Definition. For purposes of this chapter, "regional education association" means a group of school districts that have entered a joint powers agreement that has been reviewed by the superintendent of public instruction and verified as meeting the requirements of section 15.1-09.1-02.

15.1-09.1-02. Regional education association - Joint powers agreement - Review by superintendent of public instruction - Criteria. Before a group of school districts may be designated as a regional education association, the superintendent of public instruction shall review the joint powers agreement that the districts have entered and verify that:

1. The school districts:
 - a. Have a combined total land mass of at least five thousand eight hundred square miles [1502193 hectares];
 - b. (1) Have a combined total land mass of at least four thousand five hundred square miles [1165494 hectares]; and
 - (2) Number at least twelve;
 - c. (1) Have a combined total land mass of at least four thousand square miles [1035995 hectares]; and
 - (2) Have at least three thousand students in average daily membership; or

- d.
 - (1) Have a combined total land mass of at least one thousand five hundred square miles [388498 hectares]; and
 - (2) Have at least seven thousand five hundred students in average daily membership.
- 2. The school districts are contiguous to each other or, if the districts are not contiguous to each other, the superintendent of public instruction shall verify that the participating districts can provide sound educational opportunities to their students in a fiscally responsible manner without injuring other school districts or regional education associations and without negatively impacting the ability of other school districts or regional education associations to provide sound educational opportunities to their students in a fiscally responsible manner. A decision by the superintendent of public instruction under this subsection may be appealed to the state board of public school education. A decision by the state board is final.
- 3. The joint powers agreement requires that the participating school districts maintain a joint operating fund and share various administrative functions and student services in accordance with subsection 4.
- 4. a. During the first two school years in which a regional education association is operational, each participating school district shall share in at least two administrative functions and two student services, selected by the district.
 - b. During the third and fourth school years in which a regional education association is operational, each participating school district shall share in at least three administrative functions and three student services, selected by the district.
 - c. During the fifth school year in which a regional education association is operational, and each year thereafter, each participating school district shall share at least five administrative functions and five student services, selected by the district.
 - d. For purposes of this subsection:
 - (1) "Administrative functions" means:
 - (a) Business management;
 - (b) Career and technical education services management;
 - (c) Curriculum mapping or development;
 - (d) Data analysis;
 - (e) Federal program support;
 - (f) Federal title program management;
 - (g) Grant writing;

- (h) School improvement;
- (i) School safety and environment management;
- (j) Special education services management;
- (k) Staff development;
- (l) Staff retention and recruitment;
- (m) Staff sharing;
- (n) Technology support; and
- (o) Any other functions approved by the superintendent of public instruction.

(2) Student services means:

- (a) Advanced placement classes;
- (b) Alternative high schools or alternative high school programs;
- (c) Career and technical education classes;
- (d) Counseling services;
- (e) Common elementary curricula;
- (f) Distance learning classes;
- (g) Dual credit classes;
- (h) Foreign language classes;
- (i) Library and media services;
- (j) Summer programs;
- (k) Supplemental instruction programs; and
- (l) Any other services approved by the superintendent of public instruction.

- e. For purposes of this subsection, if a regional education association became operational before July 1, 2005, the 2005-06 school year must be considered the provider's first year of operation.

5. The joint powers agreement provides:

- a. Criteria for the future participation of school districts that were not parties to the original joint powers agreement;

- b. An application process by which school districts that were not parties to the original joint powers agreement can become participating districts; and
 - c. A process by which school districts that were not parties to the original joint powers agreement and whose application to participate in the agreement was denied can appeal the decision to the superintendent of public instruction.
- 6. The joint powers agreement provides for the employment and compensation of staff.
 - 7. The joint powers agreement:
 - a. Establishes the number of members on the governing board;
 - b. Establishes the manner in which members of the governing board are determined;
 - c. Requires all members of the governing board or their designees to be individuals currently serving on the board of a participating school district; and
 - d. Allows for the inclusion of ex officio nonvoting members on the governing board.
 - 8. The joint powers agreement provides that the board of the regional education association shall meet at least quarterly.
 - 9. The joint powers agreement does not permit the regional education association to compensate members of the regional education association board for attending meetings of the board and does not permit the regional education association to reimburse members of the board for any expenses incurred in attending meetings of board.

15.1-09.1-03. Regional education association - Provision of special education and related services - Annual plan. A regional education association may prepare an annual plan regarding the provision of special education and related services on behalf of its members and submit the plan to the superintendent of public instruction for approval.

15.1-09.1-04. Regional education association - Provision of special education and related services - Powers. A regional education association that provides special education and related services may:

- 1. Receive and expend state and federal moneys for the provision of special education and related services to the students of its member districts;
- 2. Employ personnel necessary to carry out administrative services, itinerant instruction, coordinative services, and related services; and
- 3. Receive and expend private and public moneys.

15.1-09.1-05. Regional education association - Provision of special education and related services - Student transportation - Coordination. A

regional education association shall plan and coordinate the transportation of students who are enrolled in its member districts and to whom it provides special education and related services.

15.1-09.1-06. Regional education associations - Receipt and use of moneys. The board of a regional education association may receive and expend moneys for the provision of administrative functions, student services, and any other lawful activities.

15.1-09.1-07. Joint operating fund - Accounting functions. The board of a regional education association may contract with any person, including a school district, for the maintenance of the association's joint operating fund and for the performance of any business or accounting functions required by law or necessary for the association's operation.

15.1-09.1-08. Regional education association - Report of expenses.

1. The board of a regional education association shall submit annually to the superintendent of public instruction, at the time and in the manner designated by the superintendent, a report detailing all expenses incurred by the association and shall attribute the expenses on a per student basis by participating school district.
2. The board shall deposit any moneys received by or on behalf of the regional education association into the association's joint operating fund.

15.1-09.1-09. Compensation - Reimbursement - Extraordinary service. The board of a regional education association may provide compensation and reimbursement to any board member who, at the direction of the board, performs extraordinary service on behalf of the board. For purposes of this section, "extraordinary service" means duties beyond those reasonably expected of members of the board and includes travel to and attendance at national meetings or conventions.

15.1-09.1-10. State aid - Payable to a regional education association - Obligation of district.

1. The superintendent of public instruction shall forward the portion of a school district's state aid that is payable by the superintendent as a result of the district's participation a regional education association directly to the association in which the district participates. The superintendent shall forward the amount payable under this subsection at the same time and in the same manner as provided for other state aid payments under section 15.1-27-01.
2. If the superintendent of public instruction determines that a school district failed to meet any contractual or statutory obligation imposed upon it as a result of the district's participation in a regional education association, the superintendent shall subtract the amount for which the district was not eligible from any future distribution of state aid to the district under section 15.1-27-01.

SECTION 7. A new section to chapter 15.1-13 of the North Dakota Century Code is created and enacted as follows:

Student teaching requirements - Teachers licensed in other states. If an individual who is or was licensed to teach in another state applies for a license to teach in this state, the education standards and practices board may not impose on the individual any student teaching requirements as a condition of licensure. This section is applicable to an individual who graduated from a state-approved regular education program but not to an individual who completed an alternative education program as a condition of licensure.

⁹⁴ **SECTION 8. 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 member of a regional education association approved by the superintendent of public instruction under chapter 15.1-09.1. 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.

⁹⁵ **SECTION 9. 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 10. AMENDMENT. Section 28 of chapter 167 of the 2005 Session Laws is amended and reenacted as follows:

SECTION 28. CONTINGENCY. If any moneys appropriated for per student payments and transportation payments in the grants - state school aid line item in House Bill No. 1013, as approved by the fifty-ninth legislative assembly, remain after payment of all statutory obligations for per student and transportation payments during the biennium beginning July 1, 2005, and ending June 30, 2007, and after the superintendent of public instruction has fulfilled any directives contained in section 27 of this Act, the superintendent shall distribute the remaining moneys as follows:

⁹⁴ Section 15.1-32-08 was also amended by section 37 of Senate Bill No. 2200, chapter 163.

⁹⁵ Section 15.1-33-02 was also amended by section 42 of Senate Bill No. 2200, chapter 163.

1. The superintendent of public instruction shall use the first \$450,000, or so much of that amount as may be necessary, to provide additional payments to school districts serving English language learners in accordance with section 15.1-27-12.
2. The superintendent of public instruction shall 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 eligible educational associations in accordance with section 32 of this Act.
 - a. The superintendent of public instruction shall distribute during the 2007-09 biennium \$45,000, or so much of that amount as may be necessary, as grants in the amount of five thousand dollars each to any educational association that commits to the development and implementation of a teacher mentoring program for first-year, second-year, and third-year teachers employed by school districts participating in the association. If any of this amount remains after meeting the requirements of this subdivision, the superintendent shall distribute those funds as additional per student payments on a prorated basis to school districts participating in educational associations.
 - b. The superintendent of public instruction shall distribute \$955,000, or so much of the sum as may be necessary, as additional per student payments to school districts participating in eligible educational associations as provided in section 32 of chapter 167 of the 2005 Session Laws.
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 11. LEGISLATIVE COUNCIL STUDY - HIGH SCHOOL CURRICULA. The legislative council shall consider studying, during the 2007-08 interim, the appropriateness and adequacy of high school curricula, with respect to preparing students for higher education and for the workplace. The study should examine curricular changes implemented in other states and expectations placed on students in other countries. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-first legislative assembly.

SECTION 12. LEGISLATIVE COUNCIL STUDY - SERVICES TO ENGLISH LANGUAGE LEARNERS. The legislative council shall consider studying, during the 2007-08 interim, the delivery of services to English language learners, including federal requirements, instructional options, assistance from the private sector, and the short-term and long-term budgetary impacts on the school districts and taxpayers of the state. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-first legislative assembly.

SECTION 13. LEGISLATIVE COUNCIL STUDY - REAUTHORIZATION OF THE NO CHILD LEFT BEHIND ACT. The legislative council shall consider studying, during the 2007-08 interim, the reauthorization of the No Child Left Behind Act, including the effect of proposed changes on the students, teachers, and school

districts of this state, the manner in which state assessments are conducted, the reporting and utilization of assessment results, and the performance of North Dakota students. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-first legislative assembly.

SECTION 14. LEGISLATIVE COUNCIL STUDY - AFTERSCHOOL PROGRAMS. The legislative council shall consider studying, during the 2007-08 interim, federally funded afterschool programs being offered to North Dakota students, including the content of the programs, applicable regulations, targeted students, and the direct and indirect costs and benefits of the programs. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-first legislative assembly.

SECTION 15. LEGISLATIVE COUNCIL STUDY - TEACHER MENTORING. The legislative council shall consider studying, during the 2007-08 interim, the feasibility and desirability of supporting teacher mentoring programs in urban and rural school districts and the most effective and efficient ways teacher mentoring programs could be implemented and delivered, including consideration of the identification and preparation of mentors and the styles, strategies, and professional development needs that would assist novice teachers in surviving, thriving, and ultimately deciding to consider teaching as a lifelong career. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations to the sixty-first legislative assembly.

SECTION 16. LEGISLATIVE COUNCIL STUDY - REGIONAL EDUCATION ASSOCIATIONS. The legislative council shall consider studying, during the 2007-08 interim, the short-term and long-term involvement of regional education associations and shall include the feasibility and desirability of regional education associations becoming political subdivisions; whether teachers should be employed directly by regional education associations, and whether that employment should include bargaining rights, contract renewal and nonrenewal provisions, participation in the teachers' fund for retirement, and participation in the state's uniform group insurance program; the impact that allowing regional education associations to hire teachers directly would have on the recruitment and retention of teachers currently employed by school districts and on teacher salary levels; whether teacher employment contracts, if offered by regional education associations, would have to parallel those of participating school districts with respect to common school calendars, annual or personal leave provisions, and other contractual benefits; the conduct of evaluations, if teachers are employed directly by regional education associations, including who will conduct the evaluations, their frequency, and the criteria upon which the evaluations are based; the organizational structure of regional education associations, including the qualifications of administrative or supervisory personnel; the governance structure of regional education associations; and state level oversight. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-first legislative assembly.

SECTION 17. REPORT TO LEGISLATIVE COUNCIL - REGIONAL EDUCATION ASSOCIATIONS. At the conclusion of each school year during the 2007-09 biennium, the superintendent of public instruction shall compile a report covering the operations of each regional education association governed by chapter 15.1-09.1. The report must include the administrative functions and student services in which members of each regional education association participated and the direct and indirect benefits of that participation. The report must specifically address the

impact of regional education associations on course offerings, student achievement, professional development opportunities, and the sharing of administrative and instructional personnel. The report also must note other resulting benefits or efficiencies. The superintendent of public instruction shall present the reports to an interim committee designated by the legislative council.

⁹⁶ **SECTION 18. REPEAL.** Sections 15.1-07-28, 15.1-07-30, 15.1-27-40, and 54-35-21 of the North Dakota Century Code are repealed.

SECTION 19. EFFECTIVE DATE. Sections 2 through 9 and sections 11 through 18 of this Act become effective on July 1, 2007.

SECTION 20. EMERGENCY. This Act is declared to be an emergency measure.

Approved May 4, 2007
Filed May 4, 2007

⁹⁶ Section 15.1-07-28 was also repealed by section 58 of Senate Bill No. 2200, chapter 163.

CHAPTER 163**SENATE BILL NO. 2200**

(Senators Flakoll, Holmberg, O'Connell)
(Representatives Gulleason, R. Kelsch, Monson)

STATE AID TO SCHOOL DISTRICTS

AN ACT to create and enact ten 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 4 of section 15.1-06-04, 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 15.1-07-28, 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 educational associations, 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 an appropriation; to provide for a commission on education improvement; to provide for teacher compensation increases; to provide for future determinations of average daily membership; to provide for the distribution of transportation grants, reorganization planning grants, and contingent payments; to provide for a contingent transfer; to provide for a report to the legislative council; to provide an expiration date; 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.

⁹⁷ **SECTION 2. AMENDMENT.** Subsection 4 of section 15.1-06-04 of the North Dakota Century Code is amended and reenacted as follows:

4. a. A During the 2007-08 school year, a full day of instruction consists of:
 - ~~a.~~ (1) At least five and one-half hours for elementary students, during which time the students are required to be in attendance for the purpose of receiving curricular instruction; and
 - ~~b.~~ (2) At least six hours for high school students, during which time the students are required to be in attendance for the purpose of receiving curricular instruction.
- b. Beginning with the 2008-09 school year, a full day of instruction consists of:
 - (1) At least five and one-half hours for kindergarten and elementary students, during which time the students are required to be in attendance for the purpose of receiving curricular instruction; and
 - (2) At least six hours for high school students, during which time the students are required to be in attendance for the purpose of receiving curricular instruction.

SECTION 3. 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

⁹⁷ Section 15.1-06-04 was also amended by section 1 of House Bill No. 1270, chapter 164.

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 4. 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 5. 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;
 - c. The September tenth fall enrollment report; and

- 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 6. 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 full-time equivalent students enrolled in a migrant summer program;
 - b. 1.00 the number of full-time equivalent students enrolled in an extended educational program in accordance with section 15.1-32-17;
 - c. 0.60 the number of full-time equivalent students enrolled in a summer education program;
 - d. 0.50 the number of full-time equivalent students enrolled in a home-based education program and monitored by the school district under chapter 15.1-23;
 - e. 0.25 the number of full-time equivalent students enrolled in an alternative high school;
 - f. 0.25 the number of full-time equivalent students enrolled in an isolated elementary school;
 - g. 0.25 the number of full-time equivalent students enrolled in an isolated high school;
 - h. 0.20 the number of full-time equivalent students attending school in a bordering state in accordance with section 15.1-29-01;
 - i. 0.17 the number of full-time equivalent students enrolled in an early childhood special education program;
 - j. 0.14 the number of full-time equivalent students enrolled in a new immigrant English language learner program;
 - k. 0.067 the number of students enrolled in average daily membership, in order to support the provision of special education services; and

- l. 0.02 the number of full-time equivalent students, other than those provided for in subdivision j, who are enrolled in an English language learner program.
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 7. 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 8. 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~~ two hundred ~~sixty-five~~ fifty 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~~ three hundred ~~seventy-nine~~ twenty-five 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 9. A new section to chapter 15.1-27 of the North Dakota Century Code is created and enacted as follows:

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

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 three and one-half 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 six percent of the baseline funding per weighted student unit, as established in subsection 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 provided in subdivision a must be annually increased by three percentage points, plus the district's share of any increased state aid for that year. Payments received by districts for the provision of full-day kindergarten do not constitute increases in state aid for purposes of this subdivision.

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 7 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 7 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;

- e. 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 45.1-27.:
- 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. a. If a school district's imputed taxable valuation per student is less than eighty-eight and one-half percent of the statewide imputed taxable valuation per student, the superintendent of public instruction shall calculate the valuation deficiency by:
- (1) Determining the difference between eighty-eight and one-half percent of the state average imputed taxable valuation per student and the district's average imputed taxable valuation per student; and
 - (2) Multiplying that difference by the district's total average daily membership.
- b. Beginning July 1, 2008, 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:

- (1) 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
 - (2) 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. In determining the amount to which a school district is entitled under this section, the superintendent of public instruction may not include any payments received by the district as a result of Public Law No. 81-874 [64 Stat. 1100; 20 U.S.C. 236 et seq.] and may not include in the district's average daily membership students who are dependents of members of the armed forces and students who are dependents of civilian employees of the department of defense.
6. 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 sixty percent of the district's mineral and tuition revenue by the district's general fund mill levy. Beginning July 1, 2008, "imputed taxable valuation" means the valuation of all taxable real property in the district plus an amount determined by dividing seventy 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]~~ fifteen-mile [24.1-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 4, 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 7 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 7 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 7 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 6 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 6 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 mills, the superintendent of public instruction shall:
 - a. Determine the difference in mills between the district's general fund levy and one hundred fifty;
 - b. Multiply the difference in mills determined under subdivision a by the district's total taxable valuation; and
 - c. Subtract the dollar amount determined under subdivision b 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 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 subdivision a by the district's total taxable valuation; and
 - c. Subtract the dollar amount determined under subdivision b 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.

1. 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:
 - a. 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;
 - b. Multiply the dollar amount determined under subdivision a by the district's average daily membership;
 - c. Multiply the dollar amount determined under subdivision b by one hundred eighty-five mills;
 - d. Multiply the dollar amount determined under subdivision c by a factor of 0.75; and
 - e. Subtract the dollar amount determined under subdivision d from the total amount of state aid to which the district is otherwise entitled.
2. For purposes of this section, "imputed taxable valuation" means the valuation of all taxable real property in the district plus an amount determined by dividing the district's mineral and tuition revenue by sixty percent of the district's general fund mill levy. Beginning July 1, 2008, "imputed taxable valuation" means the valuation of all taxable real property in the district plus an amount determined by dividing seventy percent of the district's mineral and tuition revenue by the district's general fund mill levy.

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:

- ~~4.~~
 - 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. During the 2007-08 school year, a student enrolled full time in an approved regular education kindergarten program may not exceed an average daily membership of 0.50. Beginning with the 2008-09 school year, a student enrolled full time in an approved regular education kindergarten program may not exceed an average daily membership of 1.00. The membership may be prorated for a student who is enrolled less than full time.
 - c. A student enrolled full time, as defined by the superintendent of public instruction, in an approved early childhood special education program may not exceed an average daily membership of 1.00. The membership may be prorated for a student who is enrolled less than full time.

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

SECTION 25. 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 26. 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 27. 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 - Exception. Notwithstanding the provisions of section 26 of this Act, the superintendent of public instruction may not include any distribution provided for in the final subsection of section 28 of chapter 167 of the 2005 Session Laws, as amended in 2007 Senate Bill No. 2013 and approved by the sixtieth legislative assembly, in determining the unobligated general fund balance of a school district.

SECTION 28. 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 29. 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.

- e. ~~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 30. 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.

⁹⁸ **SECTION 31. 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.

⁹⁸ Section 15.1-29-12 was also amended by section 1 of House Bill No. 1281, chapter 180.

- 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.

⁹⁹ **SECTION 32. 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.

⁹⁹ Section 15.1-29-14 was also amended by section 2 of House Bill No. 1046, chapter 179, and section 2 of House Bill No. 1092, chapter 274.

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 and tutoring charges are due and unpaid, the superintendent shall withhold an amount equal to the unpaid tuition and tutoring charges from state aid otherwise payable to the student's school district of residence until the tuition and tutoring charges that are due ~~has~~ have 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 33. 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 34. 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 student whose application is approved under this section is considered a resident of the admitting district.~~
4. Except as specifically provided in this chapter, chapter 15.1-29 does not apply to students involved in open enrollment.

SECTION 35. 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 a maximum each school year of two 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. The superintendent of public instruction shall reimburse the student's school district of residence for all excess costs, as defined in section 15.1-32-18.

¹⁰⁰ **SECTION 36. 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.~~

¹⁰¹ **SECTION 37. 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 a regional education association under chapter 15.1-09.1. 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 38. 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 students - Contracts for placement.

- ~~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.~~

¹⁰⁰ Section 15.1-31-07 was also amended by section 2 of House Bill No. 1199, chapter 181.

¹⁰¹ Section 15.1-32-08 was also amended by section 8 of Senate Bill No. 2030, chapter 162.

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.
- e. 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 39. 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 40. 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 41. 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.
5. In addition to any other reimbursements provided under this section, if a school district expends more than two percent of its annual budget for the provision of special education and related services to one student, the district shall notify the superintendent of public instruction. Upon verification, the superintendent shall reimburse the district for the difference between:
 - a. Two percent of the district's annual budget; and
 - b. The lesser of:
 - (1) The amount actually expended by the district for the provision of special education and related services to that student; or
 - (2) The amount representing four and one-half times the state average cost of education per student.

¹⁰² **SECTION 42. 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 43. 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 ~~the~~ 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:

¹⁰² Section 15.1-33-02 was also amended by section 9 of Senate Bill No. 2030, chapter 162.

- 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 44. 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 45. 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 46. A new section to chapter 15.1-38 of the North Dakota Century Code is created and enacted as follows:

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

¹⁰³ **SECTION 47. 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.

¹⁰³ Section 57-15-14 was also amended by section 3 of Senate Bill No. 2032, chapter 520.

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 48. TRANSPORTATION GRANTS - DISTRIBUTION.

1. a. During the first year of the 2007-09 biennium, the superintendent of public instruction shall calculate the payment to which each school district is entitled based on the state transportation formula as it existed on June 30, 2001, except that the superintendent shall provide reimbursement at the rate of:
 - (1) Fifty-one and one-half cents per mile for schoolbuses having a capacity of ten or more passengers and transporting students within city limits;
 - (2) Seventy-three and one-half cents per mile for schoolbuses having a capacity of ten or more passengers and transporting students in rural areas; and

- (3) Forty cents per mile for vehicles having a capacity of nine or fewer passengers and transporting students in rural areas.
 - b. During the second year of the 2007-09 biennium, the superintendent of public instruction shall distribute to each school district the same amount the district received under this section for transportation services provided during the first year of the biennium.
2. The superintendent of public instruction shall use the latest available student enrollment count in each school district in applying the provisions of the transportation formula as it existed on June 30, 2001.
 3. If any moneys provided for transportation payments in the grants - transportation line item in Senate Bill No. 2013, as approved by the sixtieth legislative assembly, remain after application of the formula provided for in this section, the superintendent of public instruction shall prorate the remaining amounts according to the percentage of the total transportation formula amount to which each school district is entitled.
 4. Nothing in this section authorizes the reimbursement of any costs incurred in providing transportation for student attendance at extracurricular activities or events.

SECTION 49. SCHOOL DISTRICT REORGANIZATION PLANNING

GRANTS. The superintendent of public instruction may expend up to \$100,000 from the grants - state school aid line item in subdivision 1 of section 3 of Senate Bill No. 2013, as approved by the sixtieth legislative assembly, for the purpose of providing planning grants to school districts participating in reorganizations under chapter 15.1-12, for the biennium beginning July 1, 2007, and ending June 30, 2009. A grant provided under this section may not exceed \$25,000 and may not be awarded unless the student enrollment of the participating districts exceeds three hundred sixty. If a grant is provided and the recipient districts vote not to reorganize, the superintendent of public instruction shall withhold the grant amount that each district received under this section from any state aid payable to the district.

SECTION 50. 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 \$5,000,000, or so much of the sum as may be necessary, to the superintendent of public instruction for the purpose of awarding to eligible 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 eligible school district:
 - a. Ten 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 eligible school district:
 - a. Ten 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.
5. For purposes of this section, an "eligible school district" is a school district that:
 - a. Has a general fund levy equal to at least one hundred fifty mills;
 - b. Is not precluded from receiving state aid by the provisions of section 26 of this Act; and
 - c. Provides an equal monetary match for any amount received under this section.

SECTION 51. NORTH DAKOTA COMMISSION ON EDUCATION IMPROVEMENT - MEMBERSHIP - DUTIES - REPORT TO LEGISLATIVE COUNCIL - REIMBURSEMENT FOR EXPENSES.

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 members of the commission are entitled to reimbursement for actual and necessary expenses incurred in the same manner as state officials. The superintendent of public instruction shall use up to \$40,000 from moneys appropriated in the grants - state school aid line item in section 3 of Senate Bill No. 2013, as approved by the sixtieth legislative assembly, to provide the reimbursements.
 4. 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.
 5. The commission shall provide periodic reports to the governor and to the legislative council.

SECTION 52. 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 53. MILITARY INSTALLATION SCHOOL DISTRICTS - ELIGIBILITY FOR STATE AID AND EQUITY PAYMENTS. If at any time the board of a United States military installation school district assumes responsibility for the direct provision of education to its students, the superintendent of public instruction shall include all students being educated by the board in the district's average daily membership, both for purposes of determining any state aid to which the district is entitled and for purposes of determining any equity payments to which the district is entitled under section 15.1-27-11.

SECTION 54. AREA CAREER AND TECHNOLOGY CENTERS - ESTABLISHMENT GRANTS - COST-SHARE INCENTIVES.

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

SECTION 55. 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 \$2,000,000, or so much of that amount as may be necessary, for the purpose of providing additional per student payments to school districts participating in regional education associations under chapter 15.1-09.1;
3. Use the next \$550,000, or so much of that amount as may be necessary, for the purpose of providing additional payments to school districts serving English language learners and new immigrant English language learners, in accordance with chapter 15.1-38;
4. Use the next \$200,000, or so much of that amount as may be necessary, for the purpose of providing additional payments to school districts offering an adult education program during the 2007-09 biennium; and
5. 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 56. 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 file for introduction legislation requesting that the sixty-first legislative assembly return any amount transferred under this section to the Bank of North Dakota.

SECTION 57. REPEAL. Section 15.1-09-46 of the North Dakota Century Code is repealed.

¹⁰⁴ **SECTION 58. REPEAL.** Sections 15.1-07-28, 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 59. EXPIRATION DATE. Section 27 of this Act is effective through June 30, 2007, and after that date is ineffective.

SECTION 60. EMERGENCY. Sections 27, 51, 57, and 59 of this Act are declared to be an emergency measure.

Approved May 3, 2007

Filed May 3, 2007

¹⁰⁴ Section 15.1-07-28 was also repealed by section 18 of Senate Bill No. 2030, chapter 162.

CHAPTER 164**HOUSE BILL NO. 1270**

(Representatives Monson, Aarsvold, Herbel, R. Kelsch)
(Senators Flakoll, Hacker)

TEACHER PROFESSIONAL DEVELOPMENT DAYS

AN ACT to amend and reenact section 15.1-06-04 of the North Dakota Century Code, relating to professional development days for teachers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁰⁵ **SECTION 1. AMENDMENT.** Section 15.1-06-04 of the North Dakota Century Code is amended and reenacted as follows:

15.1-06-04. School calendar - Length.

1. During each school year, a school district shall provide for a school calendar of at least one hundred eighty days, apportioned as follows:
 - a. One hundred seventy-three full days of instruction;
 - b. 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;
 - c. Up to two full days during which parent-teacher conferences are held or which are deemed by the school board to be compensatory time for parent-teacher conferences held outside regular school hours; and
 - d. Two days for professional development activities.
2.
 - a. In meeting the requirements for two days of professional development activities under subsection 1, a school district may require that its teachers attend the North Dakota education association instructional conference and may pay teachers for attending the conference, provided attendance is verified.
 - b. In meeting the requirements for two days of professional development activities under subsection 1, a school district may consider attendance at the North Dakota education association instructional conference to be optional, elect not to pay teachers for attending the instructional conference, and instead direct any resulting savings toward providing alternate professional development opportunities.

¹⁰⁵ Section 15.1-06-04 was also amended by section 2 of Senate Bill No. 2200, chapter 163.

- c. For purposes of this section, a "day for professional development activities" means:
- (1) Six hours of professional development activities, exclusive of meals and other breaks, conducted within a single day; or
 - (2) Two four-hour periods of professional development activities, exclusive of meals and other breaks, conducted over two days.
- ~~3.~~ 3. If a school district offers a four-hour period of professional development activities, as permitted in subdivision c of subsection 2, the school district may schedule instruction during other available hours on that same day and be credited with providing one-half day of instruction to students. The provisions of this subsection do not apply unless the one-half day of instruction equals at least one-half of the time required for a full day of instruction, as defined in this section.
- ~~4.~~ 4. A school district may not require the attendance of teachers in school or at any school-sponsored, school-directed, school-sanctioned, or school-related activities and may not schedule classroom instruction time nor alternate professional development activities on any day that conflicts with the North Dakota education association instructional conference.
- ~~4.~~ 5. A full day of instruction consists of:
- a. At least five and one-half hours for elementary students, during which time the students are required to be in attendance for the purpose of receiving curricular instruction; and
 - b. At least six hours for high school students, during which time the students are required to be in attendance for the purpose of receiving curricular instruction.
- ~~5.~~ 6. If a school's calendar provides for an extension of each schoolday beyond the statutorily required minimum number of hours, and if the extensions when aggregated over an entire school year amount to more than eighty-four hours of additional classroom instruction during the school year, the school is exempt from having to make up six hours of instruction time lost as a result of weather-related closure. In order to make up lost classroom instruction time beyond the six hours, the school must extend its normal school calendar day by at least thirty minutes.
- ~~6.~~ 7. A school that does not qualify under the provisions of subsection ~~3~~ 6 must extend its normal schoolday by at least thirty minutes to make up classroom instruction time lost as a result of weather-related closure.
- ~~7.~~ 8. If because of weather a school must dismiss before completing a full day of instruction, the school is responsible for making up only those hours and portions of an hour between the time of early dismissal and the conclusion of a full day of classroom instruction.

Approved April 13, 2007

Filed April 16, 2007

CHAPTER 165**HOUSE BILL NO. 1261**

(Representatives R. Kelsch, Hanson, L. Meier)
(Senators G. Lee, Wardner)

SCHOOL DISTRICT NAMING

AN ACT to amend and reenact section 15.1-07-02 and subsection 1 of section 15.1-12-10 of the North Dakota Century Code, relating to the naming of a school district.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-07-02 of the North Dakota Century Code is amended and reenacted as follows:

15.1-07-02. School district - Name change.

1. In order for the name of a school district to be changed, the question must be placed before and approved by a majority of the district's qualified voters at a district election. The school board may place the question on the ballot by resolution and shall place the question on the ballot if it receives a petition signed by qualified electors of the district equal in number to at least one-third of those who voted at the most recent annual school district election.
2. The proposed name change must include the phrase "school district" or "public school district" and may include no more than two additional words.
3. If a majority of the district's qualified voters approve the name change, the district must be renamed accordingly.
4. The business manager of the district shall provide notification of the new name to the county auditor, the county superintendent of schools, and the superintendent of public instruction.

SECTION 2. AMENDMENT. Subsection 1 of section 15.1-12-10 of the North Dakota Century Code is amended and reenacted as follows:

1. The reorganization plan required by section 15.1-12-09 must:
 - a. Include a map showing the boundaries of each participating district and of the proposed new district;
 - b. Include the demographic characteristics of each participating district, including the population per age group;
 - c. Include the number of students enrolled in each participating district during the current school year and during the ten preceding school years;
 - d. Include projected student enrollments for the ensuing ten years;

- e. Include the location and condition of all school buildings and facilities in each participating district and intended uses for the buildings and facilities;
- f. Address planned construction, modification, or improvement of school buildings and facilities located within the boundaries of the new district;
- g. Address planned course offerings by the new district;
- h. Include the planned administrative structure of the new district and the number of full-time equivalent personnel to be employed by the new district;
- i. Include the planned number of members who will constitute the board of the new district and the manner in which the members are to be elected;
- j. Address plans regarding student transportation;
- k. Identify other governmental entities, including multidistrict special education units and area career and technology centers, which may provide services to the new district;
- l. Include the taxable valuation and per student valuation of each participating district and the taxable valuation and per student valuation of the new district;
- m. Include the amount of all bonded and other indebtedness incurred by each participating district;
- n. Address the planned disposition of all property, assets, debts, and liabilities of each participating district, taking into consideration section 15.1-12-18;
- o. Include a proposed budget for the new district and a proposed general fund levy and any other levies, provided that tax levies submitted to and approved by the state board as part of a reorganization plan are not subject to mill levy limitations otherwise provided by law; ~~and~~
- p. Include the official name of the new district, which must include the phrase "school district" or "public school district" and which may include no more than two additional words; and
- q. Include any other information that the participating school districts wish to have considered by the county committee or the state board.

Approved March 5, 2007
Filed March 6, 2007

CHAPTER 166**HOUSE BILL NO. 1081**
(Representatives Delzer, Wrangham)
(Senator Freborg)**SCHOOL VEHICLE DRIVER REQUIREMENTS**

AN ACT to amend and reenact section 15.1-07-20 of the North Dakota Century Code, relating to requirements for drivers of schoolbuses and school vehicles.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁰⁶ **SECTION 1. AMENDMENT.** Section 15.1-07-20 of the North Dakota Century Code is amended and reenacted as follows:

15.1-07-20. Schoolbus driver - School vehicle driver - Requirements.

1. To be eligible to ~~drive~~ transport students or other passengers in a schoolbus or other school vehicle, ~~an~~ the individual must:
 - a. Hold a ~~valid~~ the appropriate class of North Dakota driver's license together with any special endorsement otherwise required by law;
 - b. Be free from communicable diseases;
 - c. Be in good physical health and have normal use of both hands, both feet, both eyes, and both ears;
 - d. Be of sound mental health;
 - e. Pass any drug and alcohol screening tests required by the school board; and
 - f. Be at least twenty-one years of age, unless the board of a school district determines that an individual not meeting this requirement can safely and adequately perform the required duties.
2. Each year, the board of a school district shall designate licensed health care professionals, as defined by department of transportation standards, to examine schoolbus and school vehicle drivers governed by subsection 1.
3. Prior to ~~commencing~~ duties as the driver of transporting students or other passengers in a schoolbus or other school vehicle, whether employed by the school district or by another entity with whom the school board has contracted, and every two years thereafter, an

¹⁰⁶ Section 15.1-07-20 was also amended by section 1 of House Bill No. 1334, chapter 167.

individual shall present to the school board verification by a designated health care professional that the individual has been examined and meets the health requirements of this section.

4. This section does not ~~prohibit~~ apply to teachers or administrators who are employed by the district from and who are operating vehicles other than schoolbuses for the purpose of transporting students to regular or special events related to educational programs in which the students are enrolled.

Approved March 21, 2007
Filed March 21, 2007

CHAPTER 167**HOUSE BILL NO. 1334**

(Representatives Mueller, D. Johnson, L. Meier)
(Senators Bakke, Robinson, Wardner)

SCHOOL VEHICLE DRIVER REQUIREMENTS

AN ACT to amend and reenact section 15.1-07-20 of the North Dakota Century Code, relating to requirements for certain school vehicle drivers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁰⁷ **SECTION 1. AMENDMENT.** Section 15.1-07-20 of the North Dakota Century Code is amended and reenacted as follows:

15.1-07-20. ~~Schoolbus~~ School vehicle driver - Requirements.

1. ~~To be eligible to drive a schoolbus or other school vehicle, an~~

a. Except as otherwise provided in this subsection, if an individual transports students or other passengers in a school vehicle for which a commercial driver's license is not required, the individual must:

a. (1) Hold a ~~valid~~ North Dakota driver's license;

b. (2) Be free from communicable diseases;

c. (3) Be in good physical health and have normal use of both hands, both feet, both eyes, and both ears;

d. (4) Be of sound mental health;

e. (5) Pass any drug and alcohol screening tests required by the school board; and

f. (6) Be at least twenty-one years of age, unless the board of a school district determines that an individual not meeting this requirement can safely and adequately perform the required duties.

b. If the vehicle being used to transport students or other passengers under this subsection is a school vehicle for which a commercial driver's license is not required, but which is designed to seat ten to fifteen passengers, the individual must:

(1) Hold a North Dakota driver's license;

¹⁰⁷ Section 15.1-07-20 was also amended by section 1 of House Bill No. 1081, chapter 166.

- (2) Meet the physical and medical requirements established for commercial vehicle drivers;
 - (3) Complete any annual training required by the superintendent of public instruction; and
 - (4) Be at least twenty-one years of age, unless the board of a school district determines that an individual not meeting this requirement can safely and adequately perform the required duties.
2. ~~Each year, the board of a school district shall designate licensed health care professionals, as defined by department of transportation standards, to examine schoolbus and school vehicle drivers.~~
3. ~~Prior to commencing duties as the driver of a schoolbus or other school vehicle, whether employed by the school district or by another entity with whom the school board has contracted, and every two years thereafter, an individual shall present to the school board verification by a designated health care professional that the individual has been examined and meets the health requirements of this section.~~
4. ~~This section does not prohibit teachers or administrators employed by the district from operating vehicles for the purpose of transporting students to regular or special events related to educational programs in which the students are enrolled.~~

The board of a school district may request, at any time, that a health care professional designated by the board examine an individual to determine if the individual meets the physical and medical requirements of subsection 1. Any examination costs that remain after application of the individual's insurance coverage are the responsibility of the board.

Approved April 16, 2007

Filed April 16, 2007

CHAPTER 168**SENATE BILL NO. 2313**

(Senators Christmann, Flakoll, Nelson)
(Representatives Delmore, R. Kelsch, Mueller)

**AUTOMATED EXTERNAL DEFIBRILLATOR
DISTRIBUTION**

AN ACT to provide for the purchase and distribution of automated external defibrillators to schools.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Automated external defibrillators - Purchase and distribution. The superintendent of public instruction shall purchase automated external defibrillators and distribute the defibrillators to school districts in this state for placement in schools or at the site of school-related activities.

Approved April 24, 2007
Filed April 24, 2007

CHAPTER 169**HOUSE BILL NO. 1305**

(Representative R. Kelsch)

RURAL SCHOOL BOARD MEMBERSHIP

AN ACT to amend and reenact section 15.1-09-04 of the North Dakota Century Code, relating to membership on rural school boards.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-09-04 of the North Dakota Century Code is amended and reenacted as follows:

15.1-09-04. Rural members of school board - Definitions.

1. Except as provided in subsection 2:
 - a. At least two members of a school board must be rural members if a district contains six or more sections of land, has a city within its boundaries, and a district population of two thousand or fewer.
 - b. At least one member of a school board must be a rural member if a district contains six or more sections of land, has within its boundaries a city of more than two thousand but fewer than fifteen thousand, and has at least twenty-five families residing on farms outside the corporate limits of the city but within the district and sending children to school in the district.
 - c. If the taxable valuation of agricultural property in the rural area of a district containing a city is greater than the taxable valuation of the urban area, the majority of the members of the school board must be rural members.
 - d. If the variance in population between the geographic voting areas of a school district is greater than ten percent, all qualified voters in the district may vote for each school board candidate.
2. A reorganization plan under chapter 15.1-12 may provide for school board membership requirements that are different from those in subsection 1.
- ~~3.~~ 4. For purposes of this section, a rural school board member is one who resides on a farm outside the corporate limits of a city or one who resides within a city that according to the latest federal census has a population of two hundred or fewer and is located within a district that has four or more incorporated cities.
 - a. "Agricultural property" means property located outside the limits of an incorporated city and zoned agricultural.

- b. "Rural" means outside the limits of an incorporated city.

Approved March 9, 2007

Filed March 12, 2007

CHAPTER 170**HOUSE BILL NO. 1383**

(Representatives L. Meier, Haas)

(Senators Dever, Potter)

SCHOOL BOARD ELECTION PRECINCTS

AN ACT to amend and reenact section 15.1-09-08 and subsection 1 of section 15.1-09-13 of the North Dakota Century Code, relating to precincts for school board elections.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-09-08 of the North Dakota Century Code is amended and reenacted as follows:

15.1-09-08. School district elections - Candidate filings. An individual seeking election to the board of a school district shall prepare and sign a document stating the individual's name and the position for which that individual is a candidate. A candidate shall also file a statement of interests as required by section 16.1-09-02. If the election is held in conjunction with a statewide election, these documents must be filed with the school district business manager, or mailed to and in the possession of the business manager, by four p.m. of the sixtieth day before the election. If the election is not held in conjunction with a statewide election, the document must be filed with the school district business manager, or mailed to and in the possession of the business manager, by four p.m. of the ~~thirty-third~~ sixtieth day before the election.

SECTION 2. AMENDMENT. Subsection 1 of section 15.1-09-13 of the North Dakota Century Code is amended and reenacted as follows:

1. At least thirty-five days prior to the annual election, the board of each school district shall designate one or more precincts for the election. The board shall arrange the precincts in a way that divides the electors of the district as equally as possible. ~~No precinct may have a population in excess of six thousand residents, as shown by the last federal decennial census.~~

Approved March 6, 2007

Filed March 7, 2007

CHAPTER 171**SENATE BILL NO. 2057**

(Education Committee)

(At the request of the Education Standards and Practices Board)

TEACHER CERTIFICATION

AN ACT to amend and reenact subsection 3 of section 15.1-13-01 and section 15.1-18.1-02 of the North Dakota Century Code, relating to the definition of the profession of teaching and national board for professional teaching standards certification; to provide a statement of legislative intent; and to provide for a report to the legislative council.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 15.1-13-01 of the North Dakota Century Code is amended and reenacted as follows:

3. "Profession of teaching" means ~~the provision in a public school district of teaching services, administrative services, or other services, which require licensure by the education standards and practices board~~ providing services in an approved school as a teacher, counselor, librarian, curriculum director or supervisor, speech or language therapist, school psychologist, special educator, or administrator.

SECTION 2. AMENDMENT. Section 15.1-18.1-02 of the North Dakota Century Code is amended and reenacted as follows:

15.1-18.1-02. National board certification program - Recertification - Board duties.

1. The board shall:
 - a. Inform teachers of the national board certification program and the scholarships and services the national board provides to teachers seeking certification.
 - b. Collect and review in the order received scholarship applications from individuals who are licensed to teach by the board or approved to teach by the board.
 - c. (1) Approve no more than seventeen applications per year under this subsection;
 - (2) During each year of the biennium, reserve three of the available scholarships under this subsection until October first for individuals teaching at low-performing schools. At that time, the three slots, if not filled, become available to all other applicants;
 - (3) Require the recipient for a scholarship under this subsection to serve during the school year as a full-time classroom teacher in a public or nonpublic school in this state; and

- (4) ~~Require~~ If available, require the recipient for a scholarship under this subsection to participate in mentoring programs developed and implemented in the employing school or school district.
- d. Ensure that all scholarship recipients under this subsection receive adequate information regarding the level of commitment required to acquire certification.
2. The board shall collect and review in the order received scholarship applications for national board recertification from individuals who are licensed to teach by the board or approved to teach by the board and:
- a. Approve no more than ~~two~~ three scholarship applications per year under this subsection;
- b. Require each recipient for a scholarship under this subsection to serve during the school year as a full-time classroom teacher in a public or nonpublic school in this state; and
- c. ~~Require~~ If available, require each recipient for a scholarship under this subsection to participate in mentoring programs developed and implemented in the employing school or school district.
3. If any individual who receives a scholarship under this section does not complete the certification process within the time allotted by the board, the individual must reimburse the state an amount equal to one-half of the amount awarded to the individual as a scholarship.
4. The board shall pay to any individual who received national board certification before July 1, 2007, one thousand dollars for each year the individual has maintained and continues to maintain national board certification, provided the individual continues to be employed by a school district in this state. An individual may not receive more than four thousand dollars under this subsection.
5. a. At the conclusion of each of ~~the first four school years~~ year after an individual receives national board certification, the ~~board shall pay to an individual is entitled to receive~~ board shall pay to an individual is entitled to receive an additional one thousand ~~five hundred~~ five hundred dollars for the life of the national board certificate if:
- a. (1) The individual ~~served~~ was employed during the school year as a full-time classroom teacher ~~in a public or nonpublic~~ by a school district in this state; and
- b. (2) The individual participated in any efforts of the employing school district to develop and implement teacher mentoring programs.
- b. The payment provided for in this subsection is available beginning with the 2007-08 school year.
6. A contract negotiated under chapter 15.1-16 may not preclude or limit the ability of a school district or any other entity, public or private, from providing any remuneration to a teacher who has obtained national board certification. Any remuneration received by a teacher as a

consequence of having obtained national board certification is in addition to any other compensation otherwise payable as a result of any contract negotiated under chapter 15.1-16.

SECTION 3. LEGISLATIVE INTENT. It is the intent of the sixtieth legislative assembly that funding for the provisions of this Act in the amount of \$77,000 be provided from the contingent distributions of per student and transportation state school aid payments for the 2005-07 biennium as provided for in section 28 of chapter 167 of the 2005 Session Laws and amended by the sixtieth legislative assembly.

SECTION 4. REPORT TO LEGISLATIVE COUNCIL. Before November 1, 2008, the education standards and practices board shall report to an interim committee designated by the legislative council regarding the payments made to individuals who hold national board certification as provided in section 15.1-18.1-02.

Approved May 2, 2007

Filed May 3, 2007

CHAPTER 172**SENATE BILL NO. 2287**

(Senators Bakke, Horne, Nething)

(Representatives Mueller, Potter)

TEACHING LICENSE SUSPENSION OR REVOCATION

AN ACT to amend and reenact section 15.1-13-25 of the North Dakota Century Code, relating to cause for the suspension or revocation of teaching licenses.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-13-25 of the North Dakota Century Code is amended and reenacted as follows:

15.1-13-25. Teaching license - Action by board - Causes.

1. After holding a public hearing in accordance with chapter 28-32, the board may issue a written warning or reprimand to the individual, suspend the individual's teaching license, or revoke the individual's teaching license if:
 - a. The individual obtained a license by means of fraud, misrepresentation, or concealment of facts.
 - b. The board becomes aware of any fact or circumstance that would have caused the board to deny licensure had the board known of the fact or circumstance at the time of initial licensure.
 - c. The individual is incompetent, immoral, intemperate, or cruel.
 - d. The individual has been convicted of, has pled guilty to, or has pled nolo contendere to an offense deemed by the board to have a direct bearing upon an individual's ability to serve as a teacher or an administrator.
 - e. The board believes that the individual, having been convicted of an offense, has not been sufficiently rehabilitated under section 12.1-33-02.1.
 - f. The individual has refused to perform the duties of a teacher or an administrator.
 - g. The individual has breached a contract with a school district.
 - h. The individual knowingly taught in violation of chapter 15.1-18.
 - i. The individual is a school district administrator and knowingly permitted another individual to teach in violation of chapter 15.1-18.
 - j. The individual has violated this chapter or any rule adopted by the board.

2. Any action of the board taken under this section may be appealed to the district court of Burleigh County in accordance with chapter 28-32.

Approved May 4, 2007
Filed May 4, 2007

CHAPTER 173**HOUSE BILL NO. 1177**

(Representatives Wald, Haas, Herbel, Klein)
(Senators G. Lee, Wardner)

SCHOOL DISTRICT SALARY INCREASES

AN ACT to create and enact a new section to chapter 15.1-16 of the North Dakota Century Code, relating to salary increases for unfillable positions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 15.1-16 of the North Dakota Century Code is created and enacted as follows:

Salary increase - Unfillable position.

1.
 - a. If, after the conclusion of a school calendar, the board of a school district has a teaching position vacant and if the board, having done all things necessary and proper, is unable to fill that position by the forty-fifth day prior to the start of the district's school calendar with an individual who is highly qualified and who meets reasonable criteria established by the board, the board shall notify the superintendent of public instruction that:
 - (1) A teaching position is vacant;
 - (2) The board has done all things necessary and proper after learning of the vacancy to find a suitable and highly qualified candidate; and
 - (3) The board will be unable to meet the statutory requirements for school approval if the position remains unfilled.
 - b. Unless the superintendent of public instruction has reason to believe that the information contained in the notice as provided in subdivision a is not accurate, the superintendent shall authorize the board, notwithstanding the terms of any agreement negotiated under this chapter, to increase the compensation offered for that position to the extent deemed necessary by the board in order to attract a suitable and highly qualified individual. The compensation paid to a successful applicant under this section may not be reduced in future years.
2.
 - a. If a teaching position becomes vacant during a school calendar or less than forty-five days prior to the start of the school calendar, the board of a school district shall do all things necessary and proper to ensure that the vacancy causes only minimal disruption to the instruction of students and that the position becomes filled as quickly as possible by a highly qualified individual who meets the reasonable criteria established by the board. The board shall notify the superintendent of public instruction that the vacancy

exists and that the board will be unable to meet the requirements for school approval if the position remains unfilled.

- b. Upon receipt of the notice as provided in subdivision a, the superintendent of public instruction shall contact the several education associations in this state and ask that they assist the board of the school district in any way possible to locate and employ an individual under the terms of the district's existing negotiated agreement. Only when the superintendent determines that all reasonable efforts have been unsuccessful may the superintendent authorize the board, notwithstanding the terms of any agreement negotiated under this chapter, to offer the level of compensation it deems necessary in order to attract a suitable and highly qualified individual for the duration of the school calendar.
3. If an individual resigns from a teaching position with a district, the individual may be rehired by the board of that district to fill a vacancy, but the individual is not eligible to receive a level of compensation greater than that provided for in the district's negotiated agreement.
4. If an individual has taught in this state during the preceding twelve months, the individual is not eligible to receive a level of compensation greater than that provided for in the district's negotiated agreement.
5. This section is applicable to contracts that are negotiated under this chapter and which take effect after July 31, 2007.

Approved March 7, 2007
Filed March 8, 2007

CHAPTER 174**HOUSE BILL NO. 1172**

(Representatives Hanson, Delmore, N. Johnson, R. Kelsch, Mueller)
(Senator Taylor)

REQUIRED INSTRUCTION

AN ACT to amend and reenact sections 15.1-21-01 and 15.1-21-02 of the North Dakota Century Code, relating to required instruction and North Dakota studies.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-21-01 of the North Dakota Century Code is amended and reenacted as follows:

15.1-21-01. Education of students - Requirements Elementary and middle schools - Required instruction. ~~The~~ In order to be approved by the superintendent of public instruction, each public and nonpublic elementary and middle school shall ensure that provide to students receive education instruction in:

1. English language arts, including reading, composition, creative writing, English grammar, and spelling.
2. Mathematics.
3. Social studies, including ~~the~~:
 - a. ~~The~~ United States Constitution; ~~and~~;
 - b. United States history; ~~geography, and government~~;
 - c. Geography;
 - d. Government; and
 - e. North Dakota studies, with an emphasis on the geography, history, and agriculture of this state, in the fourth and eighth grades.
4. Science, including agriculture.
5. Physical education.
6. Health, including physiology, hygiene, disease control, and the nature and effects of alcohol, tobacco, and narcotics.

¹⁰⁸ **SECTION 2. AMENDMENT.** Section 15.1-21-02 of the North Dakota Century Code is amended and reenacted as follows:

15.1-21-02. High schools - Required units.

1. In order to be approved by the superintendent of public instruction, each public and nonpublic high school shall make available to each student:
 - a. Four units of English language arts;
 - b. Four units of mathematics;
 - c. Four units of science;
 - d. Four units of social studies, including one of world history and one of United States history;
 - e. One-half unit of health;
 - f. One-half unit of physical education;
 - g. Two units of fine arts, at least one of which must be music;
 - h. Two units of the same foreign language; and
 - i. Two units of career and technical education.
2. In addition to the requirements of subsection 1, each public and nonpublic high school shall make available to each student, at least once every two years, one-half unit of North Dakota studies, with an emphasis on the geography, history, and agriculture of this state.
3. Each unit which must be made available under ~~subsection 4~~ this section must meet or exceed the state content standards.
- ~~3.~~ 4. For purposes of this section, unless the context otherwise requires, "make available" means that:
 - a. Each public high school and nonpublic high school shall allow students to select units over the course of a high school career from a list that includes at least ~~all the units provided in subsection 4~~ those required by this section;
 - b. If a student selects a unit from the list required by ~~subsection 4~~ this section, the public high school or the nonpublic high school shall provide the unit to the student; and
 - c. The unit may be provided to the student through any delivery method not contrary to state law and may include classroom or individual instruction and distance learning options, including

¹⁰⁸ Section 15.1-21-02 was also amended by section 1 of House Bill No. 1076, chapter 175, and section 1 of Senate Bill No. 2354, chapter 176.

interactive video, computer instruction, correspondence courses, and postsecondary enrollment under chapter 15.1-25.

- 4- 5. The board of a school district may not impose any fees or charges upon a student for the provision of or participation in units as provided in this section, other than the fees permitted by section 15.1-09-36.
- ~~5-~~ 6. If in order to meet the minimum requirements of this section a school district includes academic courses offered by a postsecondary institution under chapter 15.1-25, the school district shall:
- a. Pay all costs of the student's attendance, except those fees that are permissible under section 15.1-09-36; and
 - b. Transport the student to and from the location at which the course is offered or provide mileage reimbursement to the student if transportation is provided by the student or the student's family.
- ~~6-~~ 7. The requirements of this section do not apply to alternative high schools or alternative high school education programs.

Approved March 9, 2007

Filed March 12, 2007

CHAPTER 175**HOUSE BILL NO. 1076**

(Education Committee)

(At the request of the Department of Corrections and Rehabilitation)

YOUTH CORRECTIONAL CENTER CURRICULUM

AN ACT to amend and reenact section 15.1-21-02 of the North Dakota Century Code, relating to exemption from high school curriculum requirements for the high school education program at the North Dakota youth correctional center; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁰⁹ **SECTION 1. AMENDMENT.** Section 15.1-21-02 of the North Dakota Century Code is amended and reenacted as follows:

15.1-21-02. High schools - Required units.

1. In order to be approved by the superintendent of public instruction, each public and nonpublic high school shall make available to each student:
 - a. Four units of English language arts;
 - b. Four units of mathematics;
 - c. Four units of science;
 - d. Four units of social studies, including one of world history and one of United States history;
 - e. One-half unit of health;
 - f. One-half unit of physical education;
 - g. Two units of fine arts, at least one of which must be music;
 - h. Two units of the same foreign language; and
 - i. Two units of career and technical education.
2. Each unit which must be made available under subsection 1 must meet or exceed the state content standards.
3. For purposes of this section, unless the context otherwise requires, "make available" means that:

¹⁰⁹ Section 15.1-21-02 was also amended by section 2 of House Bill No. 1172, chapter 174, and section 1 of Senate Bill No. 2354, chapter 176.

- a. Each public high school and nonpublic high school shall allow students to select units over the course of a high school career from a list that includes at least all the units provided in subsection 1;
 - b. If a student selects a unit from the list required by subsection 1, the public high school or the nonpublic high school shall provide the unit to the student; and
 - c. The unit may be provided to the student through any delivery method not contrary to state law and may include classroom or individual instruction and distance learning options, including interactive video, computer instruction, correspondence courses, and postsecondary enrollment under chapter 15.1-25.
4. The board of a school district may not impose any fees or charges upon a student for the provision of or participation in units as provided in this section, other than the fees permitted by section 15.1-09-36.
 5. If in order to meet the minimum requirements of this section a school district includes academic courses offered by a postsecondary institution under chapter 15.1-25, the school district shall:
 - a. Pay all costs of the student's attendance, except those fees that are permissible under section 15.1-09-36; and
 - b. Transport the student to and from the location at which the course is offered or provide mileage reimbursement to the student if transportation is provided by the student or the student's family.
 6. The requirements of this section do not apply to alternative high schools or alternative high school education programs.
 7. The requirements of subdivisions g and h of subsection 1 do not apply to the North Dakota youth correctional center.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 6, 2007
Filed March 7, 2007

CHAPTER 176**SENATE BILL NO. 2354**

(Senators Triplett, Flakoll, Warner)
(Representatives Aarsvold, N. Johnson, Mueller)

PHYSICAL EDUCATION INSTRUCTION

AN ACT to amend and reenact section 15.1-21-02 of the North Dakota Century Code, relating to instruction in physical education.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹¹⁰ **SECTION 1. AMENDMENT.** Section 15.1-21-02 of the North Dakota Century Code is amended and reenacted as follows:

15.1-21-02. High schools - Required units.

1. In order to be approved by the superintendent of public instruction, each public and nonpublic high school shall make available to each student:
 - a. Four units of English language arts;
 - b. Four units of mathematics;
 - c. Four units of science;
 - d. Four units of social studies, including one of world history and one of United States history;
 - e. One-half unit of health;
 - f. One-half unit of physical education during each school year, provided that once every four years the unit must be a concept-based fitness class that includes instruction in the assessment, improvement, and maintenance of personal fitness;
 - g. Two units of fine arts, at least one of which must be music;
 - h. Two units of the same foreign language; and
 - i. Two units of career and technical education.
2. Each unit which must be made available under subsection 1 must meet or exceed the state content standards.
3. For purposes of this section, unless the context otherwise requires, "make available" means that:

¹¹⁰ Section 15.1-21-02 was also amended by section 1 of House Bill No. 1076, chapter 175, and section 2 of House Bill No. 1172, chapter 174.

- a. Each public high school and nonpublic high school shall allow students to select units over the course of a high school career from a list that includes at least all the units provided in subsection 1;
 - b. If a student selects a unit from the list required by subsection 1, the public high school or the nonpublic high school shall provide the unit to the student; and
 - c. The unit may be provided to the student through any delivery method not contrary to state law and may include classroom or individual instruction and distance learning options, including interactive video, computer instruction, correspondence courses, and postsecondary enrollment under chapter 15.1-25.
4. The board of a school district may not impose any fees or charges upon a student for the provision of or participation in units as provided in this section, other than the fees permitted by section 15.1-09-36.
 5. If in order to meet the minimum requirements of this section a school district includes academic courses offered by a postsecondary institution under chapter 15.1-25, the school district shall:
 - a. Pay all costs of the student's attendance, except those fees that are permissible under section 15.1-09-36; and
 - b. Transport the student to and from the location at which the course is offered or provide mileage reimbursement to the student if transportation is provided by the student or the student's family.
 6. The requirements of this section do not apply to alternative high schools or alternative high school education programs.

Approved March 13, 2007

Filed March 14, 2007

CHAPTER 177**SENATE BILL NO. 2309**

(Senators Nething, Bakke, Freborg)
(Representatives Haas, Kaldor, R. Kelsch)

**HIGH SCHOOL GRADUATION AND COURSE
REQUIREMENTS**

AN ACT to create and enact a new section to chapter 15.1-21 of the North Dakota Century Code, relating to high school coursework requirements; and to amend and reenact section 15.1-21-02.1 of the North Dakota Century Code, relating to high school graduation requirements.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹¹¹ **SECTION 1. AMENDMENT.** Section 15.1-21-02.1 of the North Dakota Century Code is amended and reenacted as follows:

15.1-21-02.1. High school ~~coursework~~ graduation requirements. Before a school district, a nonpublic high school, or the North Dakota division of independent study issues a high school diploma to a student, the student must have successfully completed at least twenty-one units of high school coursework from the minimum required curriculum offerings established by section 15.1-21-02. Beginning with the 2009-10 school year, the number of units required by this section increases to twenty-two and beginning with the 2011-12 school year, the number of units required by this section increases to twenty-four.

SECTION 2. A new section to chapter 15.1-21 of the North Dakota Century Code is created and enacted as follows:

High school coursework requirements.

1. Beginning with the 2008-09 school year, no student may graduate from a high school in this state unless the student demonstrates successful completion of the following:
 - a. Four units of English language arts;
 - b. Two units of mathematics;
 - c. Two units of science;
 - d. Three units of social studies, which may include one-half unit of North Dakota studies and one-half unit of multicultural studies;
 - e. One unit of physical education, which may include up to one-half unit of health; and

¹¹¹ Section 15.1-21-02.1 was also amended by section 8 of Senate Bill No. 2127, chapter 156.

- f. One unit of a foreign or native American language, fine arts, or career and technical education.
2. The superintendent of public instruction shall work with each school district to identify course offerings that meet the requirements of subdivisions a through f of subsection 1.
3. Before September first of each year, each school district shall file a copy of its graduation requirements with the superintendent of public instruction.
4. A school district may not reduce its graduation requirements below those in existence on June 30, 2007.

Approved May 4, 2007
Filed May 4, 2007

CHAPTER 178**HOUSE BILL NO. 1491**

(Representatives Gulleson, R. Kelsch)
(Senator Heitkamp)

ELECTRONIC COURSE DELIVERY APPROVAL

AN ACT to create and enact a new section to chapter 15.1-21 of the North Dakota Century Code, relating to electronic course delivery; to provide for a legislative council report; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 15.1-21 of the North Dakota Century Code is created and enacted as follows:

Electronic course delivery - Approval process.

1. Before a person may provide elementary or high school courses electronically to a student, school, or school district in this state, the person must obtain annual approval from the superintendent of public instruction. The electronic delivery of a course includes online and technological delivery methods.
2. Before the superintendent of public instruction may grant approval to a person under this section, the superintendent shall verify that:
 - a. All courses offered by the person in this state are aligned with the state content and performance standards and if standards do not exist for a particular course, the criteria must ensure that the course content is sufficiently challenging for students, given the grade level at which it is offered;
 - b. All teachers involved in the electronic delivery of a course meet or exceed the qualifications and licensure requirements placed on the teachers by the state in which the course originates; and
 - c. All students receiving a course electronically have ongoing contact time with the teachers of the course.
3. The approval process provided for in this section does not apply to a course provided electronically between approved schools in this state.

SECTION 2. REPORT TO LEGISLATIVE COUNCIL. During the 2007-08 interim, the superintendent of public instruction shall provide a report to the legislative council regarding the planning and development of the electronic course delivery approval process to be implemented as provided in this Act.

SECTION 3. EFFECTIVE DATE. Section 1 of this Act becomes effective on July 1, 2009.

Approved April 13, 2007
Filed April 16, 2007

CHAPTER 179**HOUSE BILL NO. 1046**

(Representatives Drovdal, Kempenich)

(Senator Bowman)

CHARGES AMONG SCHOOL DISTRICTS

AN ACT to amend and reenact section 15.1-29-04 and subsection 5 of section 15.1-29-14 of the North Dakota Century Code, relating to the required payment of tuition, transportation, and tutoring charges.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-29-04 of the North Dakota Century Code is amended and reenacted as follows:

15.1-29-04. Payment of tuition and transportation by sending districts - Interest on late payments - Notification. If the board of a school district agrees to pay tuition under this chapter, if it is required to pay tuition under this chapter, or if it is required to pay tuition and transportation under this chapter, the board of the sending district shall pay at least fifty percent of the annual ~~tuition~~ charge to the admitting district on or before December thirty-first and any remaining amount on or before May thirty-first. If payment is not received by the admitting district within thirty days after the date on which payment is due, simple interest at the rate of six percent per annum accrues to any amount due. If payment is not received by the admitting district within sixty days after the date on which payment is due, the admitting district shall notify the superintendent of public instruction.

¹¹² **SECTION 2. AMENDMENT.** Subsection 5 of section 15.1-29-14 of the North Dakota Century Code is amended and reenacted as follows:

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

Approved March 12, 2007

Filed March 13, 2007

¹¹² Section 15.1-29-14 was also amended by section 2 of House Bill No. 1092, chapter 274, and section 32 of Senate Bill No. 2200, chapter 163.

CHAPTER 180**HOUSE BILL NO. 1281**

(Representatives R. Kelsch, Hanson)

SCHOOL DISTRICT TUITION PAYMENTS

AN ACT to amend and reenact section 15.1-29-12 of the North Dakota Century Code, relating to school district tuition payments.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹¹³ **SECTION 1. 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 per student 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; and
 - (2) Any credit for taxes paid to the admitting district by the student's parent.

¹¹³ Section 15.1-29-12 was also amended by section 31 of Senate Bill No. 2200, chapter 163.

- d. The amount remaining is the full cost of education per student incurred by the admitting district ~~and the~~. The tuition amount payable for the individual student is the lesser of:
- (1) The full cost of education per student incurred by the admitting district; or
 - (2) One hundred fifty percent of the state average full cost of education per student.
3. This ~~chapter~~ section 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.

Approved March 9, 2007
Filed March 12, 2007

CHAPTER 181

HOUSE BILL NO. 1199

(Representative R. Kelsch)

OPEN ENROLLMENT

AN ACT to amend and reenact sections 15.1-31-01 and 15.1-31-07 of the North Dakota Century Code, relating to the open enrollment of students; to repeal section 15.1-31-02 of the North Dakota Century Code, relating to grounds for denial of an open enrollment application; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹¹⁴ **SECTION 1. AMENDMENT.** Section 15.1-31-01 of the North Dakota Century Code is amended and reenacted as follows:

15.1-31-01. Open enrollment - Procedure.

1. By ~~February~~ March first of the school year preceding the year of enrollment, a parent who wishes to enroll a student in a North Dakota school district other than the student's district of residence shall file an application for approval with the board of the admitting district and shall file a copy of the application with the student's district of residence. The superintendent of public instruction shall make the application forms available in each school district.
2. ~~By March first of the school year preceding the year of enrollment, the school board of the student's district of residence shall act on the application, notify the parent of the board's decision within five days, and if the application is approved, immediately transmit the application to the admitting district.~~
- ~~3.~~ By April first of the school year preceding the year of enrollment, the board of the admitting district shall approve or deny the application. The board of the admitting district shall notify the board of the district of residence and the student's parent of its decision within five days.
4. ~~3.~~ Notice of intent to enroll in the admitting district obligates the student to attend the admitting district during the following school year unless the school boards of the resident and the admitting districts agree in writing to allow the student to transfer back to the resident district or the student's parent relocates to another district.
- ~~5.~~ ~~4.~~ All applications must be reviewed in the order they are received.
- ~~6.~~ ~~5.~~ A student whose school district of residence does not offer the grade level in which the student requires enrollment may not participate in

¹¹⁴ Section 15.1-31-01 was also amended by section 1 of Senate Bill No. 2130, chapter 256.

open enrollment. For purposes of determining whether the grade level in which the student requires enrollment is offered, the several school districts cooperating with each other for the joint provision of education services under a plan approved by the superintendent of public instruction must be considered to be a single district.

- 7- 6. A child placed for purposes other than education in a group or residential care facility or in a residential treatment center is not eligible for open enrollment under this section.
- 8- 7. The board of a school district of residence and the board of an admitting district shall waive the application, consideration, and approval dates in this section for any student who, together with the student's parent, moves from the student's school district of residence to another school district and who wishes to enroll in a school district other than the district to which the student moved.
- 9- 8. The board of a school district of residence and the board of an admitting district shall waive the application, consideration, and approval dates in this section for any student who, together with the student's parent, moves into this state from out of state and who wishes to enroll in a school district other than the district to which the student moved.

¹¹⁵ **SECTION 2. 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 3. REPEAL. Section 15.1-31-02 of the North Dakota Century Code is repealed.

SECTION 4. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 16, 2007
Filed March 16, 2007

¹¹⁵ Section 15.1-31-07 was also amended by section 36 of Senate Bill No. 2200, chapter 163.

CHAPTER 182**SENATE BILL NO. 2108**

(Education Committee)

(At the request of the Superintendent of Public Instruction)

DISABLED STUDENT DEFINED

AN ACT to create and enact a new section to chapter 15.1-32 of the North Dakota Century Code, relating to students with disabilities resulting from noncategorical delays; and to amend and reenact subsection 4 of section 15.1-32-01 of the North Dakota Century Code, relating to the definition of a student with a disability for special education purposes.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 4 of section 15.1-32-01 of the North Dakota Century Code is amended and reenacted as follows:

4. a. "Student with ~~disabilities~~ a disability" means an individual who is at least three years of age but who has not reached the age of twenty-one before September first of the year in which the individual turns twenty-one and who requires special education and related services because of ~~mental, physical, emotional, or learning characteristics~~ requires regular or special education and related services designed to meet the individual's educational needs. ~~The term includes an individual with mental:~~
- (1) Mental retardation;
 - (2) A hearing impairment, including deafness;
~~deafness-blindness; a;~~
 - (3) Deaf-blindness;
 - (4) A speech or language impairment; a;
 - (5) A visual impairment, including blindness;
 - (6) An emotional disturbance; a;
 - (7) An orthopedic impairment; or autism, and an individual who has a;
 - (8) Autism;
 - (9) A traumatic brain injury;
 - (10) Other health impairment; or
 - (11) A specific learning disability; a traumatic brain injury, or other health impairment. ~~The term.~~

- b. "Student with a disability" includes a student ~~aged~~ age eighteen through twenty-one who is incarcerated in an adult correctional facility and who, in the last educational placement prior to incarceration, was identified as being a student with a disability and did not have an individualized education program or was identified as being a student with a disability and had an individualized education program.

SECTION 2. A new section to chapter 15.1-32 of the North Dakota Century Code is created and enacted as follows:

Noncategorical delay. If an individual who is at least three years of age but less than ten years of age exhibits a developmental profile in which cognitive, fine motor, vision, hearing, communication, preacademic, socialization, or adaptive skill acquisitions are significantly below that of same-age peers, and if the individual needs special education and related services, the school district may determine that the individual is a student with a disability as a result of a noncategorical delay.

Approved April 9, 2007

Filed April 10, 2007

CHAPTER 183**SENATE BILL NO. 2388**

(Senators O'Connell, G. Lee)
(Representatives Froseth, Hunsakor, Klein)

SCHOOL AID DISTRIBUTION

AN ACT to amend and reenact section 28 of chapter 167 of the 2005 Session Laws, relating to the contingent distribution of state school aid payments; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 28 of chapter 167 of the 2005 Session Laws is amended and reenacted as follows:

SECTION 28. CONTINGENCY. If any moneys appropriated for per student payments and transportation payments in the grants - state school aid line item in House Bill No. 1013, as approved by the fifty-ninth legislative assembly, remain after payment of all statutory obligations for per student and transportation payments during the biennium beginning July 1, 2005, and ending June 30, 2007, and after the superintendent of public instruction has fulfilled any directives contained in section 27 of this Act, the superintendent shall distribute the remaining moneys as follows:

1. The superintendent of public instruction shall use the first \$25,748, or so much of that amount as may be necessary, for the purpose of reimbursing eligible school districts that received reduced amounts of state aid. For the purposes of this subsection, an eligible school district is one that received a reduction in state aid during the 2005-07 biennium because the district's general fund levy fell below one hundred forty mills as the result of an accounting oversight.
2. The superintendent of public instruction shall use the ~~first~~ next \$450,000, or so much of that amount as may be necessary, to provide additional payments to school districts serving English language learners in accordance with section 15.1-27-12.
- ~~2-~~ 3- The superintendent of public instruction shall 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 eligible educational associations in accordance with section 32 of this Act.
- ~~3-~~ 4- 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 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved May 4, 2007
Filed May 4, 2007

CHAPTER 184**HOUSE BILL NO. 1178**
(Representatives Monson, Damschen)
(Senator Olafson)**SCHOOL DISTRICT REORGANIZATION PAYMENTS**

AN ACT to amend and reenact section 33 of chapter 167 of the 2005 Session Laws, relating to the payment of school district reorganization bonuses; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 33 of chapter 167 of the 2005 Session Laws is amended and reenacted as follows:

SECTION 33. APPROPRIATION - REORGANIZATION BONUSES - CONTINGENCY.

1. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$759,000, or so much of the sum as may be necessary, to the superintendent of public instruction for the purpose of providing a reorganization bonus to any school district having a reorganization effective on July 1, 2005, pursuant to section 15.1-12-11.1, for the biennium beginning July 1, 2005, and ending June 30, 2007.
2. a. If any moneys remain after the superintendent of public instruction completes the payment of bonuses ~~for any reorganization effective on July 1, 2005~~ as required by subsection 1, the superintendent shall provide a reorganization bonus to any other school district that reorganized on July 1, 2005. The total reorganization bonus to which a newly reorganized district is entitled under this subsection consists of:
 - (1) Fifty thousand dollars per one hundred-square-mile [259-square-kilometer] block, or a major portion thereof, included within the reorganized district and calculated by determining the lesser of the total square miles [kilometers] of the reorganized district or one thousand four hundred square miles [3625.98 square kilometers], and subtracting from that amount the square miles [kilometers] of the largest district or portion of a district involved in the reorganization;
 - (2) One thousand dollars per student calculated by determining the lesser of the total fall enrollment of the newly reorganized district or seven hundred fifty and subtracting from that amount the fall enrollment in the district or portion of the district that had the largest student population of those districts or portions of districts participating in the reorganization during the school year immediately preceding the effective date of the reorganization; and

- (3) Fifty thousand dollars for each whole school district that formed the reorganized district.
- b. The superintendent of public instruction shall distribute any reorganization bonus under this subsection on the effective date of this Act.
3. The superintendent of public instruction shall use ~~the~~ any remaining moneys to provide additional per student payments on a prorated basis, according to the latest available average daily membership of each school district.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 5, 2007
Filed March 6, 2007

CHAPTER 185**HOUSE BILL NO. 1248**

(Representatives R. Kelsch, Hanson, L. Meier)
(Senator Flakoll)

SCHOOL CONSTRUCTION APPROVAL AND APPEALS

AN ACT to amend and reenact section 15.1-36-01 of the North Dakota Century Code, relating to school construction approval and appeals.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-36-01 of the North Dakota Century Code is amended and reenacted as follows:

15.1-36-01. School construction projects - Approval.

1. Notwithstanding the powers and duties of school boards provided by law, the superintendent of public instruction shall approve the construction, purchase, repair, improvement, modernization, or renovation of any public school building or facility before commencement of the project if the cost of the project, as estimated by the school board, is in excess of twenty-five thousand dollars.
2. The superintendent of public instruction may not approve a project unless the school district proposing the project:
 - a. Demonstrates the need for the project, the educational utility of the project, and the ability to sustain a stable or increasing student enrollment for a period of time at least equal to the anticipated usable life of the project or demonstrates potential utilization of the project by a future reorganized school district; and
 - b. Demonstrates the capacity to pay for the project under rules adopted by the superintendent of public instruction pursuant to chapter 28-32 ~~after receiving input from the state board of public school education.~~
3. a. If the superintendent of public instruction denies the project, the school board may appeal the superintendent's decision to the state board of public school education. In considering the appeal, the state board shall review:
 - (1) The need for the project;
 - (2) The educational utility of the project;
 - (3) The school district's ability to sustain a stable or increasing student enrollment for a period of time at least equal to the anticipated usable life of the project;
 - (4) The potential use of the project by a future reorganized school district;

(5) The capacity of the district to pay for the project; and

(6) Any other objective factors relative to the appeal.

b. The decision of the state board is final.

4. This section does not apply to any construction, purchase, repair, improvement, renovation, or modernization required as part of a plan of correction approved by the state fire marshal under section 15.1-06-09 unless the cost of the improvements exceeds seventy-five thousand dollars.
5. For purposes of this chapter, "facility" includes a public school parking lot, public school athletic complex, or any other improvement to real property owned by the school district.

Approved March 5, 2007

Filed March 6, 2007