

**Sixty-sixth Legislative Assembly of North Dakota  
In Regular Session Commencing Thursday, January 3, 2019**

SENATE BILL NO. 2265  
(Senators Schaible, Davison, Rust)  
(Representatives Owens, Schreiber-Beck)

AN ACT to create and enact a new section to chapter 15.1-02 and section 15.1-27-04.3 of the North Dakota Century Code, relating to state school aid local property tax effort and credentialing of title I certified teachers and coordinators; to amend and reenact sections 15.1-06-04 and 15.1-07-34, the new section to chapter 15.1-09, as created by section 1 of Senate Bill No. 2230, as approved by the sixty-sixth legislative assembly, and sections 15.1-18-10, 15.1-21-03, 15.1-27-02, 15.1-27-03.1, 15.1-27-04.1, 15.1-27-23, 15.1-27-35, 15.1-29-02.1, 15.1-29-12, and 57-15-14.2 of the North Dakota Century Code, relating to teacher professional development days in the school calendar, youth behavioral health training, school board membership, teaching licenses, high school unit instructional time, per student payments, the determination of weighted average daily membership, state aid payable to school districts, weather emergencies, the calculation of average daily membership, a cross-border attendance contract with South Dakota, the determination of tuition payments, and school district levies; to repeal section 15.1-06-05 of the North Dakota Century Code, relating to applications for reconfiguration of instructional days; to provide for a report to legislative management; to provide an appropriation; to provide an effective date; to provide an expiration date; and to declare an emergency.

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

**SECTION 1.** A new section to chapter 15.1-02 of the North Dakota Century Code is created and enacted as follows:

**Credentials for teachers and coordinators of title I.**

The superintendent of public instruction shall create a process to reinstate and recertify title I credentials for individuals in the state who held a valid certification, issued by the department of public instruction, as of July 1, 2018, and continue the process in perpetuity. A school district may advertise employment for a title I certified teacher each year until the position is filled. The board of a school district may authorize the hiring of a teacher who is not certified as a title I teacher for the school year if the school district fails to receive applications from qualified applicants to fill the advertised position by July 1.

**SECTION 2. 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. A school district shall provide for a school calendar that includes:
  - a. At least one hundred seventy-five days nine hundred sixty-two and one-half hours of instruction for elementary school students and one thousand fifty hours of instruction for middle and high school students;
  - b. Three holidays, as selected by the board in consultation with district teachers from the list provided for in subdivisions b through j of subsection 1 of section 15.1-06-02;
  - c. No more than two days for:
    - (1) Parent-teacher conferences; or

- (2) Compensatory time for parent-teacher conferences held outside of regular school hours; and
- d. At least ~~two~~three days of professional development not including meals or breaks.
2. a. For the first three days of professional development required under subdivision d of subsection 1, a day of professional development must consist of:
  - ~~(1)~~a. Six hours of professional development, exclusive of meals and other breaks, conducted within a single day;
  - ~~(2)~~b. Six hours of cumulative professional development conducted under the auspices of a professional learning community; or
  - ~~(3)~~c. Two four-hour periods of professional development, exclusive of meals and other breaks, conducted over two days.
- b. ~~If a school district offers a four-hour period of professional development, as permitted in this subsection, 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. This subdivision does 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.~~
3. 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 if the dismissal will result in the school failing to meet the requirements of subdivision a of subsection 1.
4. For purposes of this section, a full day of instruction consists of:
  - a. 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
  - 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. If a school district intends to operate under a school calendar that consists of four days of instruction per week, the school district shall apply and be approved for a waiver by the superintendent of public instruction.

**SECTION 3. AMENDMENT.** Section 15.1-07-34 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-07-34. Provision of youth behavioral health training to teachers, administrators, and ancillary staff.**

1. Every two years, each school district shall provide a minimum of eight hours of professional development on youth behavioral health to elementary, middle, and high school teachers, and administrators. Each school district shall encourage ancillary and support staff to participate in the professional development. Based on the annual needs assessment of the school district, these hours must be designated from the following categories:
  - a. Trauma;
  - b. Social and emotional learning, including resiliency;
  - c. Suicide prevention;

- d. Bullying;
  - e. Understanding of the prevalence and impact of youth behavioral health wellness on family structure, education, juvenile services, law enforcement, and health care and treatment providers;
  - f. Knowledge of behavioral health symptoms, and risks;
  - g. Awareness of referral sources and evidence-based strategies for appropriate interventions; ~~or~~
  - h. Other evidence-based strategies to reduce risk factors for students; or
  - i. Current or new evidence-based behavior prevention or mitigation techniques.
2. Each school district shall report the professional development hours to the department of public instruction.
  3. The superintendent of public instruction shall collaborate with regional education associations to disseminate information, training materials, and notice of training opportunities to school districts and nonpublic schools.

**SECTION 4. AMENDMENT.** The new section to chapter 15.1-09, as created by section 1 of Senate Bill No. 2230, as approved by the sixty-sixth legislative assembly, is amended and reenacted as follows:

**School board membership - Prohibition.**

If a tribal government has prescribed by tribal law or resolution qualifications for eligibility for ~~candidates for public office~~ relating to criminal convictions which are more restrictive than the laws of this state, the qualifications ~~of candidates~~ for eligibility for membership of a public school board of a school district located on tribal land may not be less restrictive than the qualifications for eligibility prescribed by tribal law or resolution for public office relating to criminal convictions. For purposes of this section, "tribal land" means that portion of the land within the exterior boundaries of an Indian reservation which is located in the state.

**SECTION 5. AMENDMENT.** Section 15.1-18-10 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-18-10. Specialty areas - Teacher qualification.**

Notwithstanding the requirements of this chapter:

1. An individual may teach art, business education, computer education, a foreign language, music, physical education, special education, and technology education at any grade level from kindergarten through grade eight, provided the individual:
  - a. Is licensed to teach by the education standards and practices board;
  - b. Is approved to teach in that area by the education standards and practices board; and
  - c. Meets all requirements set forth in rule by the superintendent of public instruction.
2. An individual may teach Native American languages provided the individual is an eminence-credentialed teacher.
3. An individual may teach in the areas of trade, industry, technical occupations, or health occupations, provided the individual has been issued a license to teach in such areas by the education standards and practices board.

4. An individual may teach in any subject, except elementary education, special education, mathematics, science, language arts, and social studies, if the individual:
  - a. Has a permit issued by the board and has a high school diploma; and
  - b. (1) Possesses at least four thousand hours over five years of relevant work experience in the subject area to be taught;
    - (2) Possesses a certificate, permit, or degree in the subject area to be taught; or
    - (3) Achieves a passing score on the Praxis content test.

**SECTION 6. AMENDMENT.** Section 15.1-21-03 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-21-03. High school unit - Instructional time.**

1. Except as provided in subsection 2, each unit must consist of at least one hundred twenty hours of ~~instruction~~student engagement per school calendar.
2. The following units must consist of at least one hundred fifty hours of ~~instruction~~student engagement per school calendar: natural sciences, agriculture, business and office technology, marketing, diversified occupations, trade and industrial education, technology education, and health careers.
3. The hour requirements of this section are subject to reductions resulting from the holidays and nonstudent contact days provided for in section 15.1-06-04.
4. This section does not apply to schools or school districts having block schedules approved by the superintendent of public instruction.

**SECTION 7. 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 September payment unless the district has filed the September tenth fall enrollment report with the superintendent.
2. 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. The June thirtieth student membership and attendance report;
  - b. An annual school district financial report; and
  - c. ~~The September tenth fall enrollment report; and~~
  - d. The personnel report forms for licensed and nonlicensed employees.
- ~~2.3.~~ 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 8. AMENDMENT.** Section 15.1-27-03.1 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-27-03.1. 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 an extended educational program in accordance with section 15.1-32-17;
  - b. 0.60 the number of full-time equivalent students enrolled in a summer education program, including a migrant summer education program;
  - c. 0.40 the number of full-time equivalent students who:
    - (1) On a test of English language proficiency approved by the superintendent of public instruction are determined to be least proficient and placed in the first of six categories of proficiency; and
    - (2) Are enrolled in a program of instruction for English language learners;
  - d. 0.28 the number of full-time equivalent students who:
    - (1) On a test of English language proficiency approved by the superintendent of public instruction are determined to be more proficient than students placed in the first of six categories of proficiency and therefore placed in the second of six categories of proficiency; and
    - (2) Are enrolled in a program of instruction for English language learners;
  - e. 0.25 the number of full-time equivalent students under the age of twenty-one enrolled in grades nine through twelve in an alternative high school;
  - f. 0.20 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;
  - g. 0.17 the number of full-time equivalent students enrolled in an early childhood special education program;
  - h. 0.15 the number of full-time equivalent students in grades six through eight enrolled in an alternative education program for at least an average of fifteen hours per week;
  - i. 0.10 the number of students enrolled in average daily membership, if the district has fewer than one hundred students enrolled in average daily membership and the district consists of an area greater than two hundred seventy-five square miles [19424.9 hectares], provided that any school district consisting of an area greater than six hundred square miles [155399 hectares] and enrolling fewer than fifty students in average daily membership must be deemed to have an enrollment equal to fifty students in average daily membership;
  - j. 0.082 the number of students enrolled in average daily membership, in order to support the provision of special education services;
  - k. 0.07 the number of full-time equivalent students who:
    - (1) On a test of English language proficiency approved by the superintendent of public instruction are determined to be more proficient than students placed in the second of six categories of proficiency and therefore placed in the third of six categories of proficiency;
    - (2) Are enrolled in a program of instruction for English language learners; and
    - (3) Have not been in the third of six categories of proficiency for more than three years;



- i. 0.10 the number of students enrolled in average daily membership, if the district has fewer than one hundred students enrolled in average daily membership and the district consists of an area greater than two hundred seventy-five square miles [19424.9 hectares], provided that any school district consisting of an area greater than six hundred square miles [155399 hectares] and enrolling fewer than fifty students in average daily membership must be deemed to have an enrollment equal to fifty students in average daily membership;
  - j. 0.082 the number of students enrolled in average daily membership, in order to support the provision of special education services;
  - k. 0.07 the number of full-time equivalent students who:
    - (1) On a test of English language proficiency approved by the superintendent of public instruction are determined to be more proficient than students placed in the second of six categories of proficiency and therefore placed in the third of six categories of proficiency;
    - (2) Are enrolled in a program of instruction for English language learners; and
    - (3) Have not been in the third of six categories of proficiency for more than three years;
  - l. 0.025 the number of students representing that percentage of the total number of students in average daily membership which is equivalent to the three-year average percentage of students in grades three through eight who are eligible for free or reduced lunches under the Richard B. Russell National School Lunch Act [42 U.S.C. 1751 et seq.];
  - m. 0.002 the number of students enrolled in average daily membership in a school district that is a participating member of a regional education association meeting the requirements of chapter 15.1-09.1; and
  - n. 0.50 ~~0.60~~ the number of students by which the district's September tenth enrollment report exceeds the number of students in the prior year's average daily membership increasing the factor annually by 0.10, not to exceed 1.00; and
  - o. For districts paid based on September tenth enrollment in the prior year, 0.50 the number of students determined by deducting the number of students in the prior year's September tenth enrollment from the prior year's average daily membership, increasing the factor annually by 0.10, not to exceed 1.00. If the prior year's September tenth enrollment exceeds the prior year's average daily membership, then a deduction of 0.50 the number of excess students, increasing the factor annually by 0.10, not to exceed 1.00.
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 10. AMENDMENT.** Section 15.1-27-04.1 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-27-04.1. Baseline funding - Establishment - Determination of state aid.**

1. To determine the amount of state aid payable to each district, the superintendent of public instruction shall establish each district's baseline funding. A district's baseline funding consists of:
  - a. All state aid received by the district in accordance with chapter 15.1-27 during the ~~2012-13~~ 2018-19 school year;

- b. ~~The district's 2012-13 mill levy reduction grant, as determined in accordance with chapter 57-64, as it existed on June 30, 2013;~~
- e. ~~An amount equal to that raised by the district's 2012 general fund levy or that raised by one hundred ten mills of the district's 2012 general fund levy, whichever is less the property tax deducted by the superintendent of public instruction to determine the 2018-19 state aid payment;~~
- d. ~~An amount equal to that raised by the district's 2012 long distance learning and educational technology levy;~~
- e. ~~An amount equal to that raised by the district's 2012 alternative education program levy; and~~
- f.c. An amount equal to seventy-five percent of the revenue received by the school district during the 2017-18 school year for the following revenue types:
  - (1) ~~Seventy-five percent of all revenue received by the school district and~~Revenue reported under code 2000 of the North Dakota school district financial accounting and reporting manual, as developed by the superintendent of public instruction in accordance with section 15.1-02-08;
  - (2) ~~Seventy-five percent of all mineral~~Mineral revenue received by the school district through direct allocation from the state treasurer and not reported under code 2000 of the North Dakota school district financial accounting and reporting manual, as developed by the superintendent of public instruction in accordance with section 15.1-02-08;
  - (3) ~~Seventy-five percent of all tuition received by the school district and~~Tuition reported under code 1300 of the North Dakota school district financial accounting and reporting manual, as developed by the superintendent of public instruction in accordance with section 15.1-02-08, with the exception of revenue received specifically for the operation of an educational program provided at a residential treatment facility and tuition received for the provision of an adult farm management program;
  - (4) ~~Seventy-five percent of all revenue received by the school district~~Revenue from payments in lieu of taxes on the distribution and transmission of electric power;
  - (5) ~~Seventy-five percent of all revenue received by the school district~~Revenue from payments in lieu of taxes on electricity generated from sources other than coal; and
  - (6) ~~All revenue received by the school district from mobile home taxes;~~
  - (7) ~~Seventy-five percent of all revenue received by the school district~~Revenue from the leasing of land acquired by the United States for which compensation is allocated to the state under 33 U.S.C. 701(c)(3);
  - (8) ~~All telecommunications~~
- d. An amount equal to the total revenue received by the school district during the 2017-18 school year for the following revenue types:
  - (1) Mobile home tax revenue;
  - (2) Telecommunications tax revenue received by the school district; and
  - (9)(3) ~~All revenue received by the school district~~Revenue from payments in lieu of taxes and state reimbursement of the homestead credit and disabled veterans credit; and



- e. Beginning with the 2020-21 school year, the superintendent shall reduce the baseline funding for any school district that becomes an elementary district pursuant to section 15.1-07-27 after the 2012-13 school year. The reduction must be proportional to the number of weighted student units in the grades that are offered through another school district relative to the total number of weighted student units the school district offered in the year before the school district became an elementary district. The reduced baseline funding applies to the calculation of state aid for the first school year in which the school district becomes an elementary district and for each year thereafter. For districts that become an elementary district prior to the 2020-21 school year, the superintendent shall use the reduced baseline funding to calculate state aid for the 2020-21 school year and for each year thereafter.
2.
  - a. The superintendent shall divide the district's ~~total~~ baseline funding determined in subsection 1 by the district's ~~2012-13~~2017-18 weighted student units to determine the district's baseline funding per weighted student unit.
  - b. For any school district that becomes an elementary district pursuant to section 15.1-07-27 after the 2017-18 school year, the superintendent shall adjust the district's baseline funding per weighted student unit used to calculate state aid. The superintendent shall divide the district's baseline funding determined in subsection 1 by the district's weighted student units after the school district becomes an elementary district to determine the district's adjusted baseline funding per weighted student unit. The superintendent shall use the district's adjusted baseline funding per weighted student unit in the calculation of state aid for the first school year in which the school district becomes an elementary district and for each year thereafter.
  - c. Beginning with the 2021-22 school year and for each school year thereafter, the superintendent shall reduce the district's baseline funding per weighted student unit. Each year the superintendent shall calculate the amount by which the district's baseline funding per weighted student unit exceeds the payment per weighted student unit provided in subsection 3. The superintendent shall reduce the district's baseline funding per weighted student unit by fifteen percent of the amount by which the district's baseline funding per weighted student unit exceeds the payment per weighted student unit for the 2021-22 school year. For each year thereafter, the reduction percentage is increased by an additional fifteen percent. However, the district's baseline funding per weighted student unit, after the reduction, may not be less than the payment per weighted student unit provided in subsection 3.
3.
  - a. In ~~2017-18~~For the 2019-20 school year, the superintendent shall ~~multiply the~~calculate state aid as the greater of:
    - (1) The district's weighted student units ~~multiplied~~ by nine thousand ~~six~~eight hundred ~~forty-six~~thirty-nine dollars.
    - (1) The superintendent shall adjust the product to ensure the product is at least equal to the greater of:
      - (a)(2) One hundred ~~eight~~one percent of the district's baseline funding per weighted student unit, as established in subsection 2, multiplied by the district's weighted student units ~~from the previous school year, not to exceed the district's 2017-18 baseline weighted student units, plus any weighted student units in excess of the 2017-18 baseline weighted student units multiplied by nine thousand eight hundred thirty-nine dollars;~~ or
      - (b)(3) One ~~hundred~~ percent of the~~The~~ district's baseline funding as established in subsection 1.



tuition revenue received for the provision of an adult farm management program as directed in paragraph 3 of subdivision c of subsection 1, the superintendent of public instruction also shall reduce the total tuition reported by the school district by the amount of tuition revenue received for the education of students not residing in the state and for which the state has not entered a cross-border education contract; and

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

(2) After adjusting tuition revenue as provided in paragraph 1, the superintendent shall reduce all remaining revenues from all revenue types by the percentage of mills levied in 2018 by the school district for sinking and interest relative to the total mills levied in 2018 by the school district for all purposes.

5. The amount remaining after the computation required under subsection 4 is the amount of state aid to which a school district is entitled, subject to any other statutory requirements or limitations.
6. On or before June thirtieth of each year, the school board shall certify to the superintendent of public instruction the final average daily membership for the current school year.
7. For purposes of the calculation in subsection 4, each county auditor, in collaboration with the school districts, shall report the following to the superintendent of public instruction on an annual basis:
  - a. The amount of revenue received by each school district in the county during the previous school year for each type of revenue identified in subdivisions c and d of subsection 1;
  - b. The total number of mills levied in the previous calendar year by each school district for all purposes; and
  - c. The number of mills levied in the previous calendar year by each school district for sinking and interest fund purposes.

**SECTION 11. AMENDMENT.** Subdivision a of subsection 4 of section 15.1-27-04.1 of the North Dakota Century Code is amended and reenacted as follows:

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

**SECTION 12.** Section 15.1-27-04.3 of the North Dakota Century Code is created and enacted as follows:

**15.1-27-04.3. Adjustment to state aid - Local property tax effort.**

If the amount subtracted from a school district's state aid payment under subdivision a of subsection 4 of section 15.1-27-04.1 is less than the amount generated by sixty mills, the superintendent of public instruction shall adjust the amount subtracted as follows:

1. For the 2020-21 school year, increase the amount subtracted by an amount equal to ten percent of the difference between the amount generated by sixty mills and the amount determined pursuant to subdivision a of subsection 4 of section 15.1-27-04.1 before adjustment under this section;

2. For the 2021-22 school year, increase the amount subtracted by an amount equal to twenty percent of the difference between the amount generated by sixty mills and the amount determined pursuant to subdivision a of subsection 4 of section 15.1-27-04.1 before adjustment under this section;
3. For the 2022-23 school year, increase the amount subtracted by an amount equal to forty percent of the difference between the amount generated by sixty mills and the amount determined pursuant to subdivision a of subsection 4 of section 15.1-27-04.1 before adjustment under this section;
4. For the 2023-24 school year, increase the amount subtracted by an amount equal to sixty percent of the difference between the amount generated by sixty mills and the amount determined pursuant to subdivision a of subsection 4 of section 15.1-27-04.1 before adjustment under this section; and
5. For the 2024-25 school year, increase the amount subtracted by an amount equal to eighty percent of the difference between the amount generated by sixty mills and the amount determined pursuant to subdivision a of subsection 4 of section 15.1-27-04.1 before adjustment under this section.

**SECTION 13. AMENDMENT.** Section 15.1-27-23 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-27-23. Weather or other emergency conditions - Closure of schools - State aid payments to school districts.**

1. ~~The board of each school district shall include in the school calendar days that may be used for the rescheduling of instructional time lost as a result of severe weather or other emergency conditions.~~
2. a. ~~The number of days required under subsection 1 must equal the average number of days per school year, as calculated using the previous five school years, during which the school district remained closed or provided less than a full day of instruction because of severe weather or other emergency conditions.~~  
b. ~~The number of days determined under subdivision a may be included within the calendar no earlier than the month of January.~~
3. ~~If the number of days during which a public school or school district is closed or provides less than a full day of instruction exceeds the number of days determined under subdivision a of subsection 2, the public school or school district shall make every effort to reschedule the remaining classes, so that students receive at least the number of full instructional days required by section 15.1-06-04 or an equivalent period of instructional time, as determined by the superintendent of public instruction establish the length of a period, day, and week in accordance with the requirements of section 15.1-06-04. If a public school or school district is closed or provides less than a full day of instruction, the public school or school district shall reschedule those hours to ensure students receive at least the minimum number of instructional hours required by subdivision a of subsection 1 of section 15.1-06-04.~~
- 4.2. Any public school or school district for which the rescheduling of classes would create undue hardship may request that, for purposes of calculating state aid payments to the school district, the governor waive the rescheduling in whole or in part.
5. The governor may not grant a waiver for less than a full day of instruction. However, if a public school or school district closes for only a portion of its regular schoolday, the hours during which the school or school district is closed may be added together to determine the number of additional full days of instruction that may be waived under this section.

**SECTION 14. 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 ~~day~~hours that each student in a given grade, school, or school district is in attendance during a school calendar and the total number of ~~day~~hours that each student in a given grade, school, or school district is absent during a school calendar, and then dividing the sum by the ~~greater of:~~
  - a. ~~The school district's calendar~~Nine hundred sixty-two and one-half hours for elementary school students; or
  - b. ~~One hundred eighty-two~~thousand fifty hours for middle and high school students.
2. ~~For purposes of calculating average daily membership, all students are deemed to be in attendance on:~~
  - 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;~~
  - b. ~~The two days set aside for professional development activities under section 15.1-06-04; and~~
  - c. ~~The two full days, or portions thereof, during which parent teacher conferences are held or which are deemed by the board of the district to be compensatory time for parent teacher conferences held outside regular school hours.~~
3. For purposes of calculating average daily membership:
  - a. A student enrolled full time in any grade from one through twelve may not exceed an average daily membership of 1.00. The membership may be prorated for a student who is enrolled less than full time.
  - b. A student enrolled full time in an approved regular education kindergarten program may not exceed an average daily membership of 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 15. AMENDMENT.** Section 15.1-29-02.1 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-29-02.1. Cross-border attendance - Contract with South Dakota.**

1. A student who resides in a North Dakota school district contiguous to the South Dakota border may attend school in South Dakota, and a student who resides in a South Dakota school district contiguous to the North Dakota border may attend school in North Dakota, provided the superintendent of public instruction has entered into a contract with the secretary of the South Dakota department of education for the cross-border attendance of eligible students.
2. A contract entered under subsection 1 must set forth:
  - a. An application procedure;

- b. Causes for denial of an application; and
  - c. The manner and notification of acceptance.
3. A contract entered under subsection 1 must authorize the superintendent of public instruction to count any South Dakota student participating in cross-border attendance under this section for the purposes of determining the amount of state aid to which a school district in this state is entitled. The superintendent of public instruction may not count a North Dakota student participating in cross-border attendance in accordance with the contract for purposes of determining the amount of state aid to which a school district in this state is entitled.
  4. A contract entered under subsection 1 must provide that if there are more students from North Dakota than South Dakota participating in cross-border attendance under this section, the superintendent of public instruction shall forward to the secretary of the South Dakota department of education, on behalf of each excess student, an amount annually agreed to by the superintendent and the secretary as reflecting the average cost of education per student in the school districts participating in cross-border attendance in accordance with the contract. The contract must also provide that if there are more students from South Dakota than North Dakota participating in cross-border attendance under this section, the secretary shall forward to the superintendent, on behalf of each excess student, an amount annually agreed to by the superintendent and the secretary as reflecting the average cost of education per student in the school districts participating in cross-border attendance in accordance with the contract. The superintendent shall pay the cost of cross-border attendance from funds appropriated by the legislative assembly for state aid to schools. Payments received by the superintendent under this subsection shall be deposited in the general fund.
  5. ~~The superintendent of public instruction shall annually reconcile the number of students from each school district in this state who participate in cross-border attendance under this section with the number of students from school districts in South Dakota who participate in cross-border attendance under this section. The superintendent of public instruction shall withhold from each school district's state aid an amount equal to the cost incurred by the state on the part of the school district in permitting the cross-border attendance of students under this section.~~
  6. A student who requires special education services may participate in cross-border attendance under this section, provided the contract entered under subsection 1 sets forth each school district's and each state's responsibilities for payment of any excess costs incurred as a result of providing the services to the student.
  - ~~7.6.~~ Each school district may provide transportation to students participating in cross-border attendance under this section. However, the superintendent of public instruction may include only transportation provided within this state for purposes of determining the state transportation aid to which a district is entitled.
  - ~~8.7.~~ Sections 15.1-29-01 through 15.1-29-13 do not apply to students participating in cross-border attendance under this section.

**SECTION 16. 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 per student payment multiplied by the admitting district's school size weighting factor; and
  - (2) Any credit for taxes paid to the admitting district by the student's parent.
- d. The amount remaining is the full cost of education per student incurred by the admitting district. 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.
- e. Admitting school districts shall charge the tuition amount payable determined in subdivision d multiplied by two hundred percent or four thousand dollars, whichever is greater, if the admitting school district:
  - (1) Is located in an oil-producing county;
  - (2) Is eligible to receive gross production tax revenue in lieu of property taxes;
  - (3) Is located in cities with populations over twenty-four thousand;
  - (4) Has a tax base fewer than twenty square miles;
  - (5) Levies greater than sixty mills for local property taxes;
  - (6) Has student enrollments of greater than four thousand;
  - (7) Has average student growth of over two hundred per year over the preceding five years;
  - (8) Uses portable classrooms; and
  - (9) Has enrollment exceeding school facility capacity.

3. This 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.

**SECTION 17. AMENDMENT.** Section 57-15-14.2 of the North Dakota Century Code is amended and reenacted as follows:

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

1. ~~For taxable years after 2013, the~~The board of a school district may levy a tax not exceeding the amount in dollars that the school district levied for the prior year, plus twelve percent and the dollar amount of the adjustment required in section 15.1-27-04.3, up to a levy of seventy mills on the taxable valuation of the district, for any purpose related to the provision of

educational services. The proceeds of this levy must be deposited into the school district's general fund and used in accordance with this subsection. The proceeds may not be transferred into any other fund.

2. ~~For taxable years after 2013, the~~The board of a school district may levy no more than twelve mills on the taxable valuation of the district, for miscellaneous purposes and expenses. The proceeds of this levy must be deposited into a special fund known as the miscellaneous fund and used in accordance with this subsection. The proceeds may not be transferred into any other fund.
3. The board of a school district may levy no more than three mills on the taxable valuation of the district for deposit into a special reserve fund, in accordance with chapter 57-19.
4. The board of a school district may levy no more than the number of mills necessary, on the taxable valuation of the district, for the payment of tuition, in accordance with section 15.1-29-15. The proceeds of this levy must be deposited into a special fund known as the tuition fund and used in accordance with this subsection. The proceeds may not be transferred into any other fund.
5. Nothing in this section limits the board of a school district from levying:
  - a. Mills for a building fund, as permitted in sections 15.1-09-49 and 57-15-16; and
  - b. Mills necessary to pay principal and interest on the bonded debt of the district, including the mills necessary to pay principal and interest on any bonded debt incurred under section 57-15-17.1 before July 1, 2013.

**SECTION 18. AMENDMENT.** Subsection 1 of section 57-15-14.2 of the North Dakota Century Code is amended and reenacted as follows:

1. The board of a school district may levy a tax not exceeding the amount in dollars that the school district levied for the prior year, plus twelve percent ~~and the dollar amount of the adjustment required in section 15.1-27-04.3,~~ up to a levy of seventy mills on the taxable valuation of the district, for any purpose related to the provision of educational services. The proceeds of this levy must be deposited into the school district's general fund and used in accordance with this subsection. The proceeds may not be transferred into any other fund.

**SECTION 19. REPEAL.** Section 15.1-06-05 of the North Dakota Century Code is repealed.

**SECTION 20. APPROPRIATION - DEPARTMENT OF PUBLIC INSTRUCTION FOUNDATION AID STABILIZATION FUND - RAPID ENROLLMENT GRANT ONE-TIME FUNDING.** There is appropriated out of any moneys in the foundation aid stabilization fund in the state treasury, not otherwise appropriated, the sum of \$3,000,000, or so much of the sum as may be necessary, to the department of public instruction for the purpose of providing rapid enrollment grants to school districts, for the biennium beginning July 1, 2019, and ending June 30, 2021. The funding provided in this section is considered a one-time funding item. The superintendent of public instruction shall award rapid enrollment grants to eligible districts only during the first year of the 2019-21 biennium based on the following criteria:

1. A district is eligible to receive a grant under this section if the number of students reflected in the district's September tenth enrollment report exceeds the number of students in the prior year September tenth enrollment report. The increase must be at least four percent or one hundred fifty students and must be at least twenty students.
2. The superintendent of public instruction shall calculate the amount to which an eligible district is entitled as follows:



- a. Determine the actual percentage increase in the number of students and subtract two from the percentage calculated;
  - b. Determine the number of students represented by the difference determined in subdivision a of this subsection;
  - c. Multiply the number of students determined in subdivision b of this subsection by \$4,000.
3. If the amount of the appropriation provided for in this section is insufficient to meet the obligations of this subsection, the superintendent of public instruction shall prorate the payment based on the percentage of the total amount to which each school district is entitled.
  4. Any district that is precluded from receiving state aid under section 15.1-27-35.3 is not eligible to receive a grant under this section.

**SECTION 21. APPROPRIATION - DEPARTMENT OF PUBLIC INSTRUCTION - FOUNDATION AID STABILIZATION FUND - MUSIC EDUCATION GRANTS.** There is appropriated out of any moneys in the foundation aid stabilization fund in the state treasury, not otherwise appropriated, the sum of \$800,000, or so much of the sum as may be necessary, to the department of public instruction for the purpose of providing music education grants, for the biennium beginning July 1, 2019, and ending June 30, 2021. At the beginning of the biennium, each eligible school may receive a grant disbursement for kindergarten through grade five based on the average daily membership of the school. Upon request, the department of public instruction shall award an eligible school a music education grant. The department must report to the sixty-seventh legislative assembly regarding the grants awarded and outcomes, including the program's impact on student behavior and mental health. The funding provided in this section is considered a one-time funding item.

**SECTION 22. APPROPRIATION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$200,000, or so much of the sum as may be necessary, to the department of commerce for the purpose of providing matching funds to an organization providing research-based literacy intervention services to students below grade four who score below proficient in reading, for the biennium beginning July 1, 2019, and ending June 30, 2021. The department may spend the appropriated funds only as authorized in this section.

**SECTION 23. EDUCATION FUNDING FORMULA - STUDY.** There is created an education funding formula review committee. During the 2019-20 interim, the education funding formula review committee shall study the kindergarten through grade twelve education funding formula, including the components, adjustments, and weighting factors of the formula. The membership of the committee consists of the chairmen of the standing education committees of the house of representatives and the senate; three additional members of the senate, two of which must be appointed by the majority leader of the senate and one of which must be appointed by the minority leader of the senate; and three additional members of the house of representatives, two of which must be appointed by the majority leader of the house of representatives and one of which must be appointed by the minority leader of the house of representatives. Members appointed to the committee must have a secure knowledge of the current kindergarten through grade twelve funding formula. The committee shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-seventh legislative assembly.

**SECTION 24. STUDY - EFFECT OF IMPACT AIDE ON THE FUNDING FORMULA.** During the 2019-20 interim, the department of public instruction, the Indian affairs commission, and the kindergarten through grade twelve coordinating council, shall study the effect of impact aide on the funding formula to reservation schools. The department of public instruction, the Indian affairs commission, and the kindergarten through grade twelve coordinating council shall report their findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-seventh legislative assembly.

**SECTION 25. ALTERNATIVE TEACHER CERTIFICATION PROGRAM - REPORT TO LEGISLATIVE MANAGEMENT.** The education standards and practices board shall provide the

legislative management a status report during the 2019-20 interim and during the 2021-22 interim regarding the number of teacher permits issued under an alternative teacher certification program, the effectiveness of the program, the quality of instruction provided under the program, and whether the program is accomplishing desired objectives. The report must include a recommendation regarding continuation of the program.

**SECTION 26. EFFECTIVE DATE.** Section 8 of this Act becomes effective on July 1, 2020. Section 9 of this Act becomes effective on July 1, 2021. Section 17 of this Act is effective for taxable years beginning after December 31, 2018. Section 18 of this Act is effective for taxable years beginning after December 31, 2024. Section 11 of this Act becomes effective on July 1, 2025.

**SECTION 27. EXPIRATION DATE.** Section 12 of this Act is effective through June 30, 2025, and after that date is ineffective.

**SECTION 28. EMERGENCY.** Section 4 of this Act is declared to be an emergency measure.

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-sixth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2265 and that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote:        Yeas 47                      Nays 0                      Absent 0

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Secretary of the Senate

This certifies that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote:        Yeas 81                      Nays 11                      Absent 2

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
Chief Clerk of the House

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2019.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2019.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2019,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State