

**Fifty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 7, 2003**

SENATE BILL NO. 2154
(Education Committee)
(At the request of the Office of Management and Budget)

AN ACT to create and enact four new sections to chapter 15.1-07, a new section to chapter 15.1-12, and a new section to chapter 15.1-27 of the North Dakota Century Code, relating to school district plans, reorganizations, ending balances, and joint powers agreements; to amend and reenact subsection 5 of section 15.1-09-36, section 15.1-21-02, subsection 6 of section 15.1-27-01, sections 15.1-27-04, 15.1-27-05, 15.1-27-06, and 15.1-27-07, subsection 1 of section 15.1-27-10, section 15.1-27-11, subsection 4 of section 15.1-27-19, subsection 4 of section 15.1-27-21, sections 15.1-27-34, 15.1-27-37, 15.1-27-39, and 15.1-29-01, subsection 4 of section 15.1-29-06, sections 15.1-29-13 and 15.1-29-14, subsection 1 of section 15.1-30-01, section 15.1-30-05, subsection 2 of section 15.1-30-15, and sections 15.1-31-05, 15.1-31-06, and 15.1-32-16 of the North Dakota Century Code, relating to per student payments, weighting factors, transportation aid, teacher compensation, teacher compensation reimbursement, and high school units; to repeal sections 15.1-27-26, 15.1-27-27, 15.1-27-28, 15.1-27-29, 15.1-27-30, and 15.1-27-31 of the North Dakota Century Code, relating to state transportation aid payments; to provide for the distribution of transportation grants; to provide for a legislative council study; to provide for data envelopment analysis completion; to provide for No Child Left Behind Act of 2001 cost estimates; to provide for teacher compensation efforts; to provide for contingent payments; to provide an appropriation; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 15.1-07 of the North Dakota Century Code is created and enacted as follows:

School district demographics - Long-term planning process.

1. Between January first and June thirtieth of every even-numbered year, the board of each school district shall invite the public to participate in a planning process addressing the effects that demographics might have on the district in the ensuing three-year and five-year periods, and specifically addressing potential effects on:
 - a. Academic and extracurricular programs;
 - b. Instructional and administrative staffing;
 - c. Facility needs and utilization; and
 - d. District tax levies.
2. At the conclusion of the planning process, the board shall prepare a report, publish a notice in the official newspaper of the district indicating that the report is available, and make the report available upon request.

SECTION 2. A new section to chapter 15.1-07 of the North Dakota Century Code is created and enacted as follows:

High school district - Change to elementary district - Prohibited.

1. Beginning July 2, 2003, a high school district may not become an elementary district.

2. Subsection 1 does not apply to school districts participating in cooperative agreements approved by the superintendent of public instruction.

SECTION 3. A new section to chapter 15.1-07 of the North Dakota Century Code is created and enacted as follows:

Joint powers agreement - Approval by superintendent of public instruction - Criteria. If school districts participating in joint powers agreements under chapter 54-40.3 wish to receive reimbursement for expenses, as provided in section 19 of this Act, the school districts must request that the superintendent of public instruction approve their joint powers agreement. In order for the superintendent of public instruction to approve a joint powers agreement, the superintendent shall determine and annually verify that:

1.
 - a. The participating school districts are contiguous; and
 - b.
 - (1) The total land mass of the participating school districts exceeds four thousand square miles [1035995 hectares];
 - (2) The total land mass of the participating school districts exceeds two thousand five hundred square miles [647497 hectares] and the participating school districts number at least six; or
 - (3) The total land mass of the participating school districts exceeds two thousand five hundred square miles [1035995 hectares] and the total number of students in average daily membership in the participating school districts exceeds two thousand five hundred.
2. The joint powers agreement provides that a school district contiguous to any school district already participating in the joint powers agreement may become a participant in the agreement at any time.
3. The joint powers agreement requires that the participating school districts agree to maintain a joint operating fund, agree to share administrative functions, or agree to implement various common requirements; provided that:
 - a. If the participating school districts agree to establish a joint operating fund, the joint powers agreement must require that during the first school year following approval, the participating school districts shall establish a joint operating fund equal to at least two percent of the participating districts' total expenditures for the school year ending on the June thirtieth preceding the date of approval; during the second school year following approval, the participating school districts shall establish a joint operating fund equal to at least four percent of the participating districts' total expenditures for the school year ending on the June thirtieth preceding the date of approval; and during the fifth school year following approval, the participating school districts shall establish a joint operating fund equal to at least six percent of the participating districts' total expenditures for the school year ending on the June thirtieth preceding the date of approval;
 - b. If the participating school districts agree to share administrative functions, the joint powers agreement must require that during the first school year following approval, all of the participating districts shall share in the administration of at least three services; during the third school year following approval, all of the participating districts shall share in the administration of at least five services; and during the fifth school year following approval, all of the participating districts shall share in the administration of at least seven services; and that the list from which the participating districts must select the services to be shared consists of:
 - (1) Federal title program management;

- (2) Staff development;
- (3) Special education delivery;
- (4) Curriculum development or delivery;
- (5) Career and technical education delivery;
- (6) Student instructional support;
- (7) Media and technology;
- (8) Business management;
- (9) Distance learning;
- (10) Student counseling;
- (11) Food and nutrition;
- (12) Facility safety and health;
- (13) School accreditation and improvement; and
- (14) Transportation; and

c. If the participating school districts agree to implement various common requirements, the joint powers agreement must require that during the first school year following approval, all of the participating districts shall implement at least three requirements; during the third school year following approval, all of the participating districts shall implement at least six requirements; and during the fifth school year following approval, all of the participating districts shall implement at least eight requirements; and that the list from which the participating districts must select the requirements to be implemented consists of:

- (1) A common school calendar;
- (2) A common class schedule;
- (3) A common intranet communication system;
- (4) A common class registration process for grades seven through twelve;
- (5) A common curriculum for each grade level from kindergarten through six;
- (6) A common student data system;
- (7) A common school improvement and staff development process;
- (8) Common services, as set forth in a five-year plan;
- (9) A school facilities plan; and
- (10) Joint funding of dual credit and advance placement courses.

4. The joint powers agreement provides for the employment and compensation of a chief administrator and other staff necessary to carry out the provisions of the agreement and the requirements of this section and section 15.1-27-37.

SECTION 4. A new section to chapter 15.1-07 of the North Dakota Century Code is created and enacted as follows:

Ending fund balance - Amount.

1. The board of a school district may carryover moneys to the ensuing fiscal year to meet the cash requirements of all funds or purposes to which the credit of the school district may be legally extended.
2. For taxable years beginning after December 31, 2003, and ending on December 31, 2007, the amount carried over by a school district may not exceed fifty percent of the current annual budget for all purposes other than debt retirement and amounts financed from bond sources plus twenty thousand dollars.
3. For taxable years beginning after December 31, 2007, the amount carried over by a school district may not exceed forty-five percent of the current annual budget for all purposes other than debt retirement and amounts financed from bond sources plus twenty thousand dollars.

SECTION 5. AMENDMENT. Subsection 5 of section 15.1-09-36 of the North Dakota Century Code is amended and reenacted as follows:

5. If a board charges fees not authorized by law and refuses to discontinue the charges when directed to do so by the superintendent of public instruction, the superintendent shall withhold the ~~per student and transportation~~ state aid payments to which the district is entitled for each student charged an unauthorized fee.

SECTION 6. A new section to chapter 15.1-12 of the North Dakota Century Code is created and enacted as follows:

State board of public school education - Approval of elementary districts prohibited. The state board of public school education may not approve any reorganization plan that would result in the creation of an elementary district.

SECTION 7. 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:
 4. a. Four units of English- language arts;
 2. b. ~~Three~~ Four units of mathematics-;
 3. c. Four units of science-;
 4. d. ~~Three~~ Four units of social studies, including one of world history and one of United States history, ~~both of which must emphasize geography-;~~
 5. e. ~~One~~ One-half unit of health ~~and during each school year;~~
 - f. One-half unit of physical education- during each school year;
 6. g. ~~One unit of~~ Two units of fine arts, at least one of which must be music-;
 7. ~~Any six units selected from business education, economics and the free enterprise system, foreign language, American sign language, and vocational courses including family and consumer sciences, agriculture, business and office technology, marketing, diversified occupations, trade and industrial education, technology education, and health careers. The vocational courses may be offered through cooperative arrangements approved by the state board for vocational and technical education.~~

15.1-27-05. (Effective through June 30, 2004) School district equalization factor. To determine the amount of payments due a school district, the superintendent of public instruction shall add the tuition apportionment payments, per student payments, special education aid, ~~transportation aid~~, and teacher compensation payments for which a school district is eligible and from that total subtract the following:

1. The product of ~~thirty-two~~ thirty-four mills times the ~~latest available net assessed and equalized taxable~~ valuation of property in the district; and
2. The amount by which the unobligated general fund balance of the district on the preceding June thirtieth is in excess of seventy-five percent of its actual expenditures plus twenty thousand dollars.

(Effective after June 30, 2004) School district equalization factor.

1. To determine the amount of payments due a school district, the superintendent of public instruction shall add the tuition apportionment payments, per student payments, special education aid, ~~transportation aid~~, and teacher compensation payments for which a school district is eligible and from that total subtract the following:
 - 4- a. The product of ~~thirty-two~~ thirty-six mills times the ~~latest available net assessed and equalized taxable~~ valuation of property in the district;
 - 2- b. 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; and
 - c. If the mills levied by the district for general fund purposes, plus the mills levied for high school transportation and high school tuition purposes are fewer than one hundred forty, the number of mills by which the district's levies are below one hundred forty multiplied by the taxable valuation of property in the district.
2. Beginning July 1, 2006, and each year thereafter, the number of mills used by the superintendent of public instruction in determining the product required by subdivision a of subsection 1 must be increased by two over the number of mills used in determining the product required by that subdivision the previous year.

(Effective after June 30, 2008) School district equalization factor.

1. To determine the amount of payments due a school district, the superintendent of public instruction shall add the tuition apportionment payments, per student payments, special education aid, ~~transportation aid~~, and teacher compensation payments for which a school district is eligible and from that total subtract the following:
 - 4- a. The product of ~~thirty-two~~ mills the number of mills prescribed in subsection 2 times the ~~latest available net assessed and equalized taxable~~ valuation of property in the district;
 - 2- b. The amount by which the unobligated general fund balance of the district on the preceding June thirtieth is in excess of ~~fifty~~ forty-five percent of its actual expenditures, plus twenty thousand dollars; and
 - c. If the mills levied by the district for general fund purposes, plus the mills levied for high school transportation and high school tuition purposes are fewer than one hundred forty, the number of mills by which the district's levies are below one hundred forty multiplied by the taxable valuation of property in the district.
2. The number of mills used by the superintendent of public instruction in determining the product required by subdivision a of subsection 1 must be increased by two over the

number of mills used in determining the product required by that subdivision the previous year.

SECTION 11. AMENDMENT. Section 15.1-27-06 of the North Dakota Century Code is amended and reenacted as follows:

15.1-27-06. Per student payments - Weighting factors - High school students. The superintendent of public instruction shall make payments each year, as provided for in this section, to each school district operating a high school and to each school district contracting to educate high school students in a federal school, subject to adjustment as provided in section 15.1-27-21.

1. Each district having under seventy-five students in average daily membership in grades nine through twelve is entitled to receive the amount of money that results from multiplying the factor 1.625 adjusted by ~~seventy-five~~ eighty-five percent of the difference between 1.625 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, by the number of students in grades nine through twelve who are registered in that district, times the per student payment provided for in section 15.1-27-04. Beginning July 1, 2004, the factor is that which represents the five-year average cost of education per student in this category, as determined by the superintendent of public instruction.
2. Each district having at least seventy-five but fewer than one hundred fifty students in average daily membership in grades nine through twelve is entitled to receive the amount of money that results from multiplying the factor 1.335 adjusted by ~~seventy-five~~ eighty-five percent of the difference between 1.335 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, by the number of students in grades nine through twelve who are registered in that district, times the per student payment provided for in section 15.1-27-04. Beginning July 1, 2004, the factor is that which represents the five-year average cost of education per student in this category, as determined by the superintendent of public instruction.
3. Each district having at least one hundred fifty but fewer than five hundred fifty students in average daily membership in grades nine through twelve is entitled to receive the amount of money that results from multiplying the factor 1.24 adjusted by ~~seventy-five~~ eighty-five percent of the difference between 1.24 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, by the number of students in grades nine through twelve who are registered in that district, times the per student payment provided for in section 15.1-27-04. Beginning July 1, 2004, the factor is that which represents the five-year average cost of education per student in this category, as determined by the superintendent of public instruction.
4. Each district having at least five hundred fifty students in average daily membership in grades nine through twelve is entitled to receive the amount of money that results from multiplying the factor 1.14 adjusted by ~~seventy-five~~ eighty-five percent of the difference between 1.14 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, by the number of students in grades nine through twelve who are registered in that district, times the per student payment provided for in section 15.1-27-04. Beginning July 1, 2004, the factor is that which represents the five-year average cost of education per student in this category, as determined by the superintendent of public instruction.
5. Each district having an approved alternative high school education program is entitled to receive the amount of money that results from multiplying the factor in:
 - a. Subsection 1 by the number of students registered in the alternative education program, times the per student payment provided for in section 15.1-27-04, if fewer

than seventy-five students in average daily membership are enrolled in the alternative education program.

- b. Subsection 2 by the number of students registered in the alternative education program, times the per student payment provided for in section 15.1-27-04, if at least seventy-five but fewer than one hundred fifty students in average daily membership are enrolled in the alternative education program.
 - c. Subsection 3 by the number of students registered in the alternative education program, times the per student payment provided for in section 15.1-27-04, if at least one hundred fifty but fewer than five hundred fifty students in average daily membership are enrolled in the alternative education program.
 - d. Subsection 4 by the number of students registered in the alternative education program, times the per student payment provided for in section 15.1-27-04, if at least five hundred fifty students in average daily membership are enrolled in the alternative education program.
6. In order to be eligible for enumeration under this section, a student:
- a. Must have completed the work of the eighth grade;
 - b. Must not have completed the work of the twelfth grade; and
 - c. Must be a resident of this state or a nonresident attending a school in this state under the auspices of a foreign student exchange program.

SECTION 12. AMENDMENT. Section 15.1-27-07 of the North Dakota Century Code is amended and reenacted as follows:

15.1-27-07. Per student payments - Weighting factors - Elementary school students. The superintendent of public instruction shall make payments each year, as provided for in this section, to each school district operating an elementary school and to each school district contracting to educate elementary students in a federal school, subject to adjustment as provided in section 15.1-27-21.

1. a. Each district having only a one-room rural school is entitled to receive the amount of money that results from multiplying the factor 1.28 adjusted by ~~seventy-five~~ eighty-five percent of the difference between 1.28 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, by the number of students in average daily membership in grades one through eight in that school, times the per student payment provided for in section 15.1-27-04. Beginning July 1, 2004, the factor is that which represents the five-year average cost of education per student in this category, as determined by the superintendent of public instruction. The payment level provided for in this subdivision is applicable only to the first sixteen students.
- b. If the one-room rural school has more than sixteen students in average daily membership in grades one through eight, the district in which the school is located is entitled to receive ninety percent of the per student payment provided for in section 15.1-27-04 for each additional student. The district is not entitled to any payment for more than twenty students in average daily membership.
- c. If a one-room rural school is located in a district having another elementary school, the weighting factor for the students in grades one through six must be based on the average daily membership in the district in grades one through six, as provided in this section.

- d. If a one-room rural school is located in a school district with another school that has students in grade seven or eight, the weighting factor for the students in grade seven or eight must be the same as that provided for in subsection 5.
2. Except as provided in subsection 1, each school district having fewer than one hundred students in average daily membership in grades one through six is entitled to receive the amount of money that results from multiplying the factor 1.09 adjusted by ~~seventy-five~~ eighty-five percent of the difference between 1.09 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, by the number of students in average daily membership in grades one through six in the district, times the per student payment provided for in section 15.1-27-04. Beginning July 1, 2004, the factor is that which represents the five-year average cost of education per student in this category, as determined by the superintendent of public instruction. The payment provided for in this subsection is applicable only to the first twenty-five students in average daily membership per classroom or per teacher.
3. Each school district having at least one hundred students but fewer than one thousand students in average daily membership in grades one through six is entitled to receive the amount of money that results from multiplying the factor .905 adjusted by ~~seventy-five~~ eighty-five percent of the difference between .905 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, by the number of students in average daily membership in grades one through six in the district, times the per student payment provided for in section 15.1-27-04. Beginning July 1, 2004, the factor is that which represents the five-year average cost of education per student in this category, as determined by the superintendent of public instruction. The payment provided for in this subsection is applicable only to the first thirty students in average daily membership per classroom or per teacher.
4. Each school district having at least one thousand students in average daily membership in grades one through six is entitled to receive the amount of money that results from multiplying the factor .95 adjusted by ~~seventy-five~~ eighty-five percent of the difference between .95 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, by the number of students in average daily membership in grades one through six in the district, times the per student payment provided for in section 15.1-27-04. Beginning July 1, 2004, the factor is that which represents the five-year average cost of the education per student in this category, as determined by the superintendent of public instruction. The payment provided for in this subsection is applicable only to the first thirty students in average daily membership per classroom or per teacher.
5. Each school district having students in grades seven and eight is entitled to receive the amount of money that results from multiplying the factor 1.01 adjusted by ~~seventy-five~~ eighty-five percent of the difference between 1.01 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, by the number of students in average daily membership in grades seven and eight in the district, times the per student payment provided for in section 15.1-27-04. Beginning July 1, 2004, the factor is that which represents the five-year average cost of education per student in this category, as determined by the superintendent of public instruction. The payment provided for in this subsection is applicable only to the first thirty students in average daily membership per classroom or per teacher. The payments provided for in this subsection are not available for students who attend a one-room rural school if that school is the only one in the district that offers educational services to students in grades seven and eight.

6. Each school district having a special education program approved by the director of special education is entitled to receive, for each student who is enrolled in the program and who is at least three years of age but less than the compulsory age for school attendance, the amount of money that results from multiplying the factor 1.01 adjusted by ~~seventy-five~~ eighty-five percent of the difference between 1.01 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, by the number of special education students in average daily membership in the program who are at least three years of age but less than the compulsory age for school attendance, times the per student payment provided for in section 15.1-27-04. Beginning July 1, 2004, the factor is that which represents the five-year average cost of education per student in this category, as determined by the superintendent of public instruction.
7.
 - a. Each school district operating a kindergarten as provided for in section 15.1-22-02 is entitled to receive the amount of money that results from multiplying the factor .50 adjusted by ~~seventy-five~~ eighty-five percent of the difference between .50 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, by the number of kindergarten students in average daily membership in the district, times the per student payment provided for in section 15.1-27-04. Beginning July 1, 2004, the factor is that which represents the five-year average cost of education per student in this category, as determined by the superintendent of public instruction. The payment provided for in this subsection is applicable only to the first twenty-five students in average daily membership per classroom or per teacher.
 - b. In order to receive the full per student payment available under this section, a district must operate a kindergarten program that provides the equivalent of ninety full days of classroom instruction during a twelve-month period. A district is entitled to a prorated payment under this section if it operates a kindergarten program of shorter duration.
8. Each school district that educates students who are also enrolled in nonpublic schools is entitled to receive proportionate payments under this section.
9. Each school district is entitled to receive as much in total payments for elementary students as it would have received if it had the highest number of students in the next lower category.
10. A school district is not entitled to any payments provided for by this chapter unless each teacher employed by the district:
 - a. Holds a teaching license issued by the education standards and practices board; or
 - b. Has been approved to teach by the education standards and practices board.

SECTION 13. AMENDMENT. Subsection 1 of section 15.1-27-10 of the North Dakota Century Code is amended and reenacted as follows:

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 ~~per student and transportation 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.

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 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 and unrestricted federal 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. If the quotient is less than the latest available statewide average taxable valuation per student and if the district's educational expenditure per student is below the most recent available statewide average cost of education per student, the superintendent of public instruction shall:
 - 1- 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;
 - 2- b. Multiply the result determined under ~~subsection 1~~ subdivision a by the number of students in average daily membership in grades one through twelve in the high school district;
 - 3- c. Multiply the result determined under ~~subsection 2~~ 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
 - 4- d. Multiply the result determined under ~~subsection 3~~ by thirty percent 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.
 - e. The result is the supplemental payment to which a high school district is entitled, in addition to any other amount provided under chapter 15.1-27.

SECTION 15. AMENDMENT. Subsection 4 of section 15.1-27-19 of the North Dakota Century Code is amended and reenacted as follows:

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 ~~per student and transportation~~ 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 16. AMENDMENT. Subsection 4 of section 15.1-27-21 of the North Dakota Century Code is amended and reenacted as follows:

4. The superintendent of public instruction shall pay the amount due under this section within the limits of legislative appropriations for ~~per-student state aid payments and transportation aid~~.

SECTION 17. AMENDMENT. Section 15.1-27-34 of the North Dakota Century Code is amended and reenacted as follows:

15.1-27-34. Transfer of funds prohibited - Youth correctional center. The superintendent of public instruction may not transfer any portion of the funds appropriated for ~~per-student state aid payments and transportation aid~~ to the youth correctional center to support the provision of educational services by the youth correctional center.

SECTION 18. AMENDMENT. Section 15.1-27-37 of the North Dakota Century Code is amended and reenacted as follows:

15.1-27-37. Compensation of teachers - Claim for reimbursement - Rules.

1. On or before October first of each year or within thirty days after the conclusion of the negotiation process provided for in chapter 15.1-16, the board of a school district may file a claim with the superintendent of public instruction for the reimbursement of moneys to be expended by the district during the school year to ~~increase the~~ at least maintain the level of compensation of provided to teachers employed by the district during the 2002-03 school year.
2. The claim must include:
 - a. The number of full-time equivalent teachers employed by the district as of September fifteenth;
 - b. The number of full-time equivalent teachers ~~who will receive an increase in compensation over the amount paid during the previous~~ whose level of compensation will be at least equal to that provided during the 2002-03 school year; and
 - c. The total amount of ~~the increase in~~ any compensation increases provided to full-time equivalent teachers over the level of compensation provided during the 2002-03 school year.
3.
 - a. For the ~~2001-02~~ 2003-04 school year, the reimbursement provided for in this section may not exceed ~~one thousand dollars multiplied by the number of full-time equivalent teachers employed by the district as of September 15, 2001.~~
 - b. ~~Except as provided in subdivision c, for the 2002-03 school year, the reimbursement provided for in this section may not exceed three thousand dollars multiplied by the number of full-time equivalent teachers employed by the district as of September 15, 2002~~ 2003.
 - b. For the 2004-05 school year, the reimbursement provided for in this section may not exceed three thousand dollars multiplied by the number of full-time equivalent teachers employed by the district as of September 15, 2004.
 - c. For the ~~2002-03~~ 2003-04 school year, the reimbursement under this section for each individual employed as of September 15, ~~2002~~ 2003, as a full-time equivalent teacher for the first school year since becoming licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board, may not exceed one thousand dollars.
 - d. For the 2004-05 school year, the reimbursement under this section for each individual employed as of September 15, 2004, as a full-time equivalent teacher for the first school year since becoming licensed to teach by the education standards and

practices board or approved to teach by the education standards and practices board, may not exceed one thousand dollars.

4. For purposes of this section, the claim of a district may include proportionate expenditures made by the district to compensate individuals employed as teachers by the special education unit or the area vocational and technology center to which the district belongs.
5. The superintendent of public instruction may adopt rules regarding claims for and the payment of reimbursements under this section.

SECTION 19. A new section to chapter 15.1-27 of the North Dakota Century Code is created and enacted as follows:

Approved joint powers agreement - Reimbursement by superintendent of public instruction.

1. The individual employed as a chief administrator for the purpose of carrying out the provisions of a joint powers agreement and any requirements under section 3 of this Act shall submit to the superintendent of public instruction, at the time and in the manner designated by the superintendent, receipts for expenses incurred during a school year in delivering services and programs under section 3 of this Act.
2. The superintendent of public instruction, upon verifying the receipts, shall reimburse the chief administrator of the joint powers agreement for any expenses incurred in delivering services and programs under the auspices of the joint powers agreement as provided in section 3 of this Act. The reimbursement may not exceed the lesser of:
 - a. The total expenses incurred in delivering services and programs under section 3 of this Act; or
 - b. Fifty thousand dollars.
3. The chief administrator shall deposit any moneys received under subsection 2 in the participating districts' joint operating fund.
4. The superintendent of public instruction may not provide any reimbursement to a chief administrator under this section unless the joint powers agreement under which the services and programs are delivered has been approved by the superintendent.

SECTION 20. AMENDMENT. Section 15.1-27-39 of the North Dakota Century Code is amended and reenacted as follows:

15.1-27-39. Annual salary - Minimum amount.

1. Beginning with the ~~2001-02~~ 2003-04 school year, the board of each school district shall provide to each full-time teacher, under contract for a period of nine months, a minimum salary level of salary for the contract period equal to at least ~~eighteen~~ twenty-one thousand ~~five hundred~~ dollars.
2. Beginning with the ~~2002-03~~ 2004-05 school year, the board of each school district shall provide to each full-time teacher, under contract for a period of nine months, a ~~base~~ minimum salary level for the contract period equal to at least ~~twenty~~ twenty-one thousand ~~five hundred~~ dollars.

SECTION 21. 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 may attend a school in a bordering state in accordance with section 15.1-29-02 under the following circumstances:
 - a. A student who lives within forty miles [64.37 kilometers] of another state or in a county bordering on another state may, with the approval of the school board, attend a public school in a bordering state.
 - b. A student who has attended a school district in a bordering state since, and including, the 1990-91 school year must be permitted to continue attending school in the district in the bordering state.
 - c. A student whose sibling attended an out-of-state school during or before the 1990-91 school year must be permitted to attend school in the district the sibling attended in the bordering state.
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 ~~per student and transportation state~~ aid payments for a student attending an out-of-state school to the student's school district of residence.
 - 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.
 - e. ~~Transportation payments for a student attending school in a bordering state must be determined as provided in section 15.1-27-27.~~
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 22. AMENDMENT. Subsection 4 of section 15.1-29-06 of the North Dakota Century Code is amended and reenacted as follows:

4. A school district of residence may provide transportation to a student for whom tuition is paid under this section. If a school district of residence does not provide transportation to the student, it may be provided by the admitting district ~~and the admitting district is then entitled to state payments for the transportation of the student.~~

SECTION 23. AMENDMENT. Section 15.1-29-13 of the North Dakota Century Code is amended and reenacted as follows:

15.1-29-13. Tuition payments - Nonresident students.

1. a. Except as provided in this subsection, the board of a school district that admits a nonresident student shall charge and collect tuition for the student. Either the student's district of residence shall pay the tuition to the admitting district in accordance with section 15.1-29-12 or the student's parent shall pay the tuition to the admitting district in accordance with section 15.1-29-07.
- b. A board may charge tuition for nonresident students enrolled in an approved alternative education program.
- c. Except as otherwise provided, if a school district fails to charge and collect tuition for a nonresident student, the districts shall forfeit any ~~per student payment and transportation~~ state aid otherwise payable for the nonresident student.
2. a. The board of a school district may admit a nonresident student from another district in this state offering the same grade level as that in which the student is enrolled without a charge and collection of tuition if the sending and admitting districts have entered into a written contract regarding the student's admission.
- b. For purposes of determining whether the same grade level is offered, two or more school districts cooperating with each other for the joint provision of educational services under a plan approved by the superintendent of public instruction must be considered to be a single district.
- c. The contract must specify whether transportation is to be provided and, if so, by which district. If a school district of residence does not provide transportation to the student, it may be provided by the admitting district and the admitting district is then entitled to state payments for the transportation of the student.
- d. A contract is not necessary if the nonresident student is enrolled in an approved alternative education program for which no tuition is charged.
- e. A school district may admit a nonresident student described in section 15.1-31-07 from another school district in this state without a charge and collection of tuition and without a written agreement.
3. A school district may not charge or collect from a nonresident student, the student's parent, or the student's district of residence any fees or charges not otherwise assessed to all resident students.

SECTION 24. 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.

1. For purposes of applying this chapter, a student's school district of residence is the district in which the student resides:
 - a. 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;

- b. 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;
 - c. 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
 - d. At the time the student is voluntarily admitted to a state-operated institution or to a state-licensed child care home or facility.
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.
 - a. If, after a student placement is made as provided for under subsection 1, the student's custodial parent establishes residency in another school district in this state, the school district in which the custodial parent has established residency becomes the student's school district of residence for purposes of paying tuition and tutoring charges under subsection 2.
 - b. The state shall pay the tuition and tutoring charges under subsection 2 from funds appropriated by the legislative assembly for ~~per student and transportation~~ state aid to schools:
 - (1) If, after a student placement is made as provided for under subsection 1, the student's custodial parent establishes residency outside this state; or
 - (2) If a court orders a termination of parental rights with respect to the student's parents.
 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 are due and unpaid, the superintendent shall withhold an amount equal to the unpaid tuition from ~~per student payments and transportation~~ state aid otherwise payable to the student's school district of residence until the tuition due has 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 special education in the case of a student with disabilities or from ~~funds~~

~~appropriated for per student state aid payments and transportation aid 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. If the student's custodial parent establishes residency outside this state, or if a court orders a termination of parental rights with respect to the student's parents, the state shall pay the tuition and tutoring charges under subsection 2 from funds appropriated by the legislative assembly for ~~per student and transportation~~ state aid to schools.
8.
 - a. The placing agency shall provide written notice regarding an initial placement and all subsequent placements of a student, by registered mail, 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. The written notice must include any information requested by the superintendent of public instruction for purposes of determining payment responsibility.
 - c. 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 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 25. AMENDMENT. Subsection 1 of section 15.1-30-01 of the North Dakota Century Code is amended and reenacted as follows:

1. The board of a school district may:
 - a. Provide for the transportation of a student to and from school; or
 - b. If acceptable to the student's parent, reimburse the parent for expenses incurred in providing meals and lodging to the student outside the student's home, ~~provided that the reimbursement may not exceed the amount permitted under subsection 4 of section 15.1-27-27.~~

SECTION 26. AMENDMENT. Section 15.1-30-05 of the North Dakota Century Code is amended and reenacted as follows:

15.1-30-05. Schoolbus transportation services - Optional fee. The board of a school district that has not been reorganized may charge a fee for the provision of schoolbus transportation service to students. ~~If the service began before July 1, 1981, the total fees charged may not exceed an amount equal to the difference between the state transportation payment and the lesser of the state average cost for transportation or the district's cost during the preceding school year. If the service started on or after July 1, 1981, the total fees charged may not exceed an amount equal to the difference between~~

~~the state transportation payment and the school district's cost of transportation during the preceding school year. A district that has not previously provided transportation to students shall base its fees on estimated costs during the first year transportation is provided.~~

SECTION 27. AMENDMENT. Subsection 2 of section 15.1-30-15 of the North Dakota Century Code is amended and reenacted as follows:

2. a. The board of a school district that provides transportation to its students may contract with other local, state, or federal government entities for the joint provision and integration of transportation services to the public.
- b. A contract under this section must provide for the observation of all safety requirements otherwise imposed by law on schoolbuses, on school vehicles, and on schoolbus drivers when students are being transported.
- ~~c. Transportation services to students provided pursuant to this subsection qualify for state transportation aid under chapter 15.1-27. However, no payments may be made from state funds for any costs incurred as a result of a deviation from established schoolbus routes necessitated by a contract pursuant to this subsection.~~

SECTION 28. AMENDMENT. Section 15.1-31-05 of the North Dakota Century Code is amended and reenacted as follows:

15.1-31-05. Open enrollment - Transportation. A school district of residence may provide transportation to a student participating in open enrollment. If a district of residence does not provide transportation to a student participating in open enrollment, transportation may be provided by the admitting district, ~~and the admitting district is then entitled to state payments for the transportation of that student.~~

SECTION 29. AMENDMENT. Section 15.1-31-06 of the North Dakota Century Code is amended and reenacted as follows:

15.1-31-06. Open enrollment - School boards - Standards.

1. The board of each school district shall set standards for the acceptance and denial of applications for admittance under open enrollment as provided in section 15.1-31-01. The standards may address the capacity of a program, class, grade level, or school building. The standards may not address previous academic achievement, participation in extracurricular activities, disabilities, English language proficiency, or previous disciplinary proceedings.
2. A board may also determine that applications for admittance under open enrollment, in accordance with this chapter, will not be considered.
3. a. A school district participating in an open enrollment program may not give or offer to give a student remuneration, or directly exert influence on the student or the student's family, in order to encourage participation in the open enrollment program.
- b. For purposes of this subsection, directly exerting influence means providing information about the school district to individuals who are not residents of that district unless the information is requested.
- c. If the members of the board of a school district believe that another school district has violated this subsection, the board may file a complaint with the superintendent of public instruction. Upon receipt of a complaint alleging a violation of this subsection, the superintendent of public instruction shall hold a hearing and accept testimony and evidence regarding the complaint. If the superintendent finds that a school district has violated this subsection, the superintendent may withhold some or all of the ~~transportation~~ state aid payments to which the district would be otherwise entitled for

a period of one year from the date of the finding. A decision by the superintendent under this subsection is appealable to the state board of public school education. A decision by the state board of public school education is final.

SECTION 30. 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. ~~The school district is entitled to state reimbursement for the provision of transportation services to the student. If transportation is provided by a student's parent, the superintendent may reimburse the school district only for mileage costs.~~

SECTION 31. TRANSPORTATION GRANTS - DISTRIBUTION.

1. The superintendent of public instruction shall distribute from the grants - state school aid line item in Senate Bill No. 2013, as approved by the fifty-eighth legislative assembly, to each school district in the state an amount equal to the state transportation aid payments received by the school district during the 2001-03 biennium.
2. If two or more school districts reorganize into a single district on or after July 1, 2003, the superintendent of public instruction shall forward to the newly reorganized district an amount equal to the transportation payments received by each of the districts participating in the reorganization during the 2001-03 biennium.
3. If a school district that received transportation payments during the 2001-03 biennium dissolves on or after July 1, 2003, the superintendent of public instruction shall forward a percentage of the amount equal to that which the dissolved district received for transportation aid payments during the 2001-03 biennium to each school district that enrolls students who attended the dissolved school district during its final year of operation. Each school district eligible for payment under this subsection is entitled to receive that percentage of the total amount payable which is the same as the percentage that the number of district's students who attended the dissolved school district during its final year of operation bears to the total number of students who attended the dissolved school district during its final year of operation.
4. During each year of the 2003-05 biennium, the superintendent of public instruction shall distribute one-half of the payments required by this section to school districts at the same time and in the same manner as required for state aid payments under section 15.1-27-01.

SECTION 32. LEGISLATIVE COUNCIL STUDY. The legislative council shall consider studying the manner in which elementary and secondary education is funded in this state and the feasibility and desirability of instituting alternative funding methods, including consideration of the amount of local contribution on a per resident basis. If the legislative council conducts this study, the legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the fifty-ninth legislative assembly.

SECTION 33. NO CHILD LEFT BEHIND - COST ESTIMATE. The superintendent of public instruction shall confer with the United States secretary of education, the education commission of the states, and other public and nonpublic entities to determine the estimated costs that are likely to be incurred by this state during the ensuing eight years in order to meet the requirements of the No Child Left Behind Act of 2001. The superintendent of public instruction shall provide the information obtained to an interim committee designated by the legislative council.

SECTION 34. DATA ENVELOPMENT ANALYSIS - COMPLETION DATE - REPORT. The superintendent of public instruction shall complete the data envelopment analysis project, as set forth in Senate Bill No. 2032, as approved by the fifty-eighth legislative assembly, on or before September 1, 2004, and shall report any findings and conclusions to a committee designated by the legislative council, as soon after that date as practicable.

SECTION 35. SUPPLEMENTAL PAYMENTS - DISTRIBUTION. The superintendent of public instruction shall distribute from the grants - state school aid line item in Senate Bill No. 2013, as approved by the fifty-eighth legislative assembly, an amount for supplemental payments under section 15.1-27-11 equal to the amount that payments to school districts have been reduced as a result of the application of subdivision c of subsection 1 of section 15.1-27-05, as it is in effect after June 30, 2004.

SECTION 36. DISTRIBUTION OF DIFFERENCE IN PAYMENTS - HOLD HARMLESS PAYMENTS.

1. If funds appropriated by the legislative assembly to the grants - teacher compensation line item in Senate Bill No. 2013, as approved by the fifty-eighth legislative assembly, remain after completion of all statutory obligations, to the extent of legislative appropriations, the superintendent of public instruction shall:
 - a. Calculate the payment to which a school district is entitled during the 2003-05 biennium under this Act; and
 - b. Calculate the payment to which a school district would have been entitled during the 2003-05 biennium under this Act if the per student payments established in section 15.1-27-04 had included the total amount appropriated to the grants - teacher compensation payments line item in Senate Bill No. 2013, as approved by the fifty-eighth legislative assembly, and further provided that no requirements for teacher compensation were placed on school districts by section 15.1-27-37.
2. If the amount to which a school district is entitled during the biennium under this Act is less than the amount to which a school district would have been entitled under the parameters of subdivision b of subsection 1, the superintendent of public instruction shall forward the difference between the amounts to the school district on or before June 30, 2005. If insufficient moneys exist to fully meet the requirements of this subsection, the superintendent of public instruction shall prorate the payments according to that percentage of the amount available to which a school district is entitled.
3. If any moneys remain after the superintendent of public instruction completes the requirements of subsections 1 and 2, the superintendent of public instruction shall use the remaining moneys to provide additional per student payments on a prorated basis, according to the average daily membership of each school district during the 2004-05 school year.

SECTION 37. CONTINGENT PAYMENTS - DISTRIBUTION. If any moneys appropriated for per student payments and transportation payments in the grants - state school aid line item in Senate Bill No. 2013 remain after payment of all statutory obligations for per student and transportation payments during the biennium beginning July 1, 2003, and ending June 30, 2005, the superintendent of public instruction shall distribute the remaining moneys as follows:

1. The superintendent of public instruction shall use the first \$250,000, or so much of that amount as is necessary, for the purpose of providing reimbursements to the chief administrators of joint powers agreements pursuant to section 19 of this Act.
2. The superintendent of public instruction shall use the next \$1,000,000, or so much of that amount as is necessary, for the purpose of providing reorganization bonuses, pursuant to section 15.1-12-11.1, to school districts having reorganizations effective after July 1, 2003, and before July 1, 2005. If insufficient moneys exist to fully meet the requirements of this

subsection, the superintendent of public instruction shall prorate the payments according to that percentage of the amount available to which a school district is entitled.

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 average daily membership of each school district during the 2004-05 school year.

SECTION 38. TEACHER COMPENSATION - CONTINUATION OF EFFORT. The board of a school district shall consider continuing the efforts made in the 2001-03 biennium to increase teacher salaries throughout the state.

SECTION 39. APPROPRIATION - REORGANIZATION BONUSES. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$500,000, 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, 2003, pursuant to section 15.1-12-11.1, for the biennium beginning July 1, 2003, and ending June 30, 2005.

SECTION 40. APPROPRIATION. 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 providing supplemental payments to school districts under section 15.1-27-11, for the biennium beginning July 1, 2003, and ending June 30, 2005.

SECTION 41. REPEAL. Sections 15.1-27-26, 15.1-27-27, 15.1-27-28, 15.1-27-29, 15.1-27-30, and 15.1-27-31 of the North Dakota Century Code are repealed.

SECTION 42. EFFECTIVE DATE. Section 7 of this Act becomes effective on July 1, 2005.

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 Fifty-eighth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2154.

Senate Vote: Yeas 27 Nays 18 Absent 2

House Vote: Yeas 60 Nays 29 Absent 5

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2003.

Approved at _____ M. on _____, 2003.

Governor

Filed in this office this _____ day of _____, 2003,

at _____ o'clock _____ M.

Secretary of State