

Introduced by

Education Committee

(At the request of the Office of Management and Budget)

1 A BILL for an Act to create and enact three new sections to chapter 15.1-07 and a new section
2 to chapter 15.1-12 of the North Dakota Century Code, relating to school district plans and
3 changes and interim funds; to amend and reenact subsection 5 of section 15.1-09-36,
4 subsection 6 of section 15.1-27-01, sections 15.1-27-04, 15.1-27-05, 15.1-27-06, and
5 15.1-27-07, subsection 1 of section 15.1-27-10, subsection 4 of section 15.1-27-19,
6 subsection 4 of section 15.1-27-21, sections 15.1-27-34, 15.1-27-37, 15.1-27-39, and
7 15.1-29-01, subsection 4 of section 15.1-29-06, sections 15.1-29-13 and 15.1-29-14,
8 subsection 1 of section 15.1-30-01, section 15.1-30-05, subsection 2 of section 15.1-30-15, and
9 sections 15.1-31-05, 15.1-31-06, and 15.1-32-16 of the North Dakota Century Code, relating to
10 per student payments, weighting factors, transportation aid, teacher compensation, and teacher
11 compensation reimbursement; to provide for a legislative council study; to provide for
12 contingent payments; to repeal sections 15.1-27-26, 15.1-27-27, 15.1-27-28, 15.1-27-29,
13 15.1-27-30, and 15.1-27-31 of the North Dakota Century Code, relating to state transportation
14 aid payments; to provide an appropriation; and to provide an effective date.

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

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

18 **School district demographics - Long-term planning process.**

- 19 1. Between January first and June thirtieth of every even-numbered year, the board
20 of each school district shall invite the public to participate in a planning process
21 addressing the effects that demographics might have on the district in the ensuing
22 five-year and ten-year periods, and specifically addressing potential effects on:
23 a. Academic, athletic, and extracurricular programs;
24 b. Instructional and administrative staffing;

- 1 c. Facility needs and utilization; and
2 d. District tax levies.
3 2. At the conclusion of the planning process, the board shall prepare a report, publish
4 a notice in the official newspaper of the district indicating that the report is
5 available, and make the report available upon request.

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

8 **High school district - Change to elementary district - Prohibited.**

- 9 1. Beginning July 2, 2003, a high school district may not become an elementary
10 district.
11 2. Subsection 1 does not apply to elementary school districts participating in
12 cooperative agreements approved by the superintendent of public instruction.

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

15 **Interim fund.**

- 16 1. The board of a school district may include in its budget an item to be known as the
17 "interim fund". The interim fund must be carried over to the ensuing fiscal year to
18 meet the cash requirements of all funds or purposes to which the credit of the
19 school district may be legally extended for that portion of the fiscal year prior to the
20 receipt of taxes.
21 2. The amount in the interim fund may not exceed the lesser of:
22 a. The amount reasonably required to finance the school district for the first nine
23 months of the ensuing fiscal year; or
24 b. Fifty percent of the current annual appropriation for all purposes other than
25 debt retirement and appropriations financed from bond sources plus twenty
26 thousand dollars.

27 **SECTION 4. AMENDMENT.** Subsection 5 of section 15.1-09-36 of the North Dakota
28 Century Code is amended and reenacted as follows:

- 29 5. If a board charges fees not authorized by law and refuses to discontinue the
30 charges when directed to do so by the superintendent of public instruction, the
31 superintendent shall withhold the ~~per student and transportation~~ state aid

1 payments to which the district is entitled for each student charged an unauthorized
2 fee.

3 **SECTION 5.** A new section to chapter 15.1-12 of the North Dakota Century Code is
4 created and enacted as follows:

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

8 **SECTION 6. AMENDMENT.** Subsection 6 of section 15.1-27-01 of the North Dakota
9 Century Code is amended and reenacted as follows:

10 6. If funds appropriated for distribution to districts as ~~per student and transportation~~
11 ~~state~~ aid become available after April first, the superintendent of public instruction
12 shall distribute the newly available payments on or before June thirtieth.

13 **SECTION 7. AMENDMENT.** Section 15.1-27-04 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **15.1-27-04. Per student payment.** The per student payment to which each school
16 district is entitled for the first year of the biennium is two thousand ~~two~~ five hundred
17 ~~eighty-seven~~ nine dollars. The per student payment to which each school district is entitled for
18 the second year of the biennium is two thousand ~~three~~ six hundred ~~forty-seven~~ thirty-three
19 dollars. The per student amount is the basis for calculating state payments to school districts,
20 as provided in sections 15.1-27-06 and 15.1-27-07.

21 **SECTION 8. AMENDMENT.** Section 15.1-27-05 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **15.1-27-05. (Effective through June 30, 2004) School district equalization factor.**

24 To determine the amount of payments due a school district, the superintendent of public
25 instruction shall add the tuition apportionment payments, per student payments, special
26 education aid, ~~transportation aid~~, and teacher compensation payments for which a school
27 district is eligible and from that total subtract the following:

28 1. The product of ~~thirty-two~~ thirty-four mills times the latest available net assessed
29 and equalized valuation of property in the district.

1 2. The amount by which the unobligated general fund balance of the district on the
2 preceding June thirtieth is in excess of seventy-five percent of its actual
3 expenditures plus twenty thousand dollars.

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

5 1. To determine the amount of payments due a school district, the superintendent of
6 public instruction shall add the tuition apportionment payments, per student
7 payments, special education aid, ~~transportation aid~~, and teacher compensation
8 payments for which a school district is eligible and from that total subtract the
9 following:

10 4. a. The product of ~~thirty-two~~ thirty-six mills times the latest available net
11 assessed and equalized valuation of property in the district.

12 ~~2.~~ b. The amount by which the unobligated general fund balance of the district on
13 the preceding June thirtieth is in excess of fifty percent of its actual
14 expenditures, plus twenty thousand dollars.

15 2. Beginning July 1, 2005, and each year thereafter, the number of mills used by the
16 superintendent of public instruction in determining the product required by
17 subdivision a of subsection 1 must be increased by two over the number of mills
18 used in determining the product required by that subdivision the previous year,
19 until the number of mills used by the superintendent of public instruction reaches
20 an equity index equal to twenty-five percent of the state average school district
21 general fund mill levy. Upon reaching the equity index, the superintendent of
22 public instruction shall annually adjust the number of mills in order to remain at the
23 equity index.

24 3. Whenever the legislative assembly considers changes in state aid to education,
25 the legislative assembly shall also review the rate established by subsection 2 for
26 reaching the equity index and determine whether that rate should be adjusted
27 proportionately.

28 **SECTION 9. AMENDMENT.** Section 15.1-27-06 of the North Dakota Century Code is
29 amended and reenacted as follows:

30 **15.1-27-06. Per student payments - Weighting factors - High school students.**

31 The superintendent of public instruction shall make payments each year, as provided for in this

1 section, to each school district operating a high school and to each school district contracting to
2 educate high school students in a federal school, subject to adjustment as provided in section
3 15.1-27-21.

4 1. Each district having under seventy-five students in average daily membership in
5 grades nine through twelve is entitled to receive the amount of money that results
6 from multiplying the factor 1.625 adjusted by ~~seventy-five~~ eighty-five percent of the
7 difference between 1.625 and the factor representing the five-year average cost of
8 education per student for this category, as determined by the superintendent of
9 public instruction, by the number of students in grades nine through twelve who
10 are registered in that district, times the per student payment provided for in section
11 15.1-27-04. Beginning July 1, 2004, the factor is that which represents the
12 five-year average cost of education per student in this category, as determined by
13 the superintendent of public instruction.

14 2. Each district having at least seventy-five but fewer than one hundred fifty students
15 in average daily membership in grades nine through twelve is entitled to receive
16 the amount of money that results from multiplying the factor 1.335 adjusted by
17 ~~seventy-five~~ eighty-five percent of the difference between 1.335 and the factor
18 representing the five-year average cost of education per student for this category,
19 as determined by the superintendent of public instruction, by the number of
20 students in grades nine through twelve who are registered in that district, times the
21 per student payment provided for in section 15.1-27-04. Beginning July 1, 2004,
22 the factor is that which represents the five-year average cost of education per
23 student in this category, as determined by the superintendent of public instruction.

24 3. Each district having at least one hundred fifty but fewer than five hundred fifty
25 students in average daily membership in grades nine through twelve is entitled to
26 receive the amount of money that results from multiplying the factor 1.24 adjusted
27 by ~~seventy-five~~ eighty-five percent of the difference between 1.24 and the factor
28 representing the five-year average cost of education per student for this category,
29 as determined by the superintendent of public instruction, by the number of
30 students in grades nine through twelve who are registered in that district, times the
31 per student payment provided for in section 15.1-27-04. Beginning July 1, 2004,

1 the factor is that which represents the five-year average cost of education per
2 student in this category, as determined by the superintendent of public instruction.

3 4. Each district having at least five hundred fifty students in average daily
4 membership in grades nine through twelve is entitled to receive the amount of
5 money that results from multiplying the factor 1.14 adjusted by ~~seventy-five~~
6 eighty-five percent of the difference between 1.14 and the factor representing the
7 five-year average cost of education per student for this category, as determined by
8 the superintendent of public instruction, by the number of students in grades nine
9 through twelve who are registered in that district, times the per student payment
10 provided for in section 15.1-27-04. Beginning July 1, 2004, the factor is that which
11 represents the five-year average cost of education per student in this category, as
12 determined by the superintendent of public instruction.

13 5. Each district having an approved alternative high school education program is
14 entitled to receive the amount of money that results from multiplying the factor in:
15 a. Subsection 1 by the number of students registered in the alternative
16 education program, times the per student payment provided for in section
17 15.1-27-04, if fewer than seventy-five students in average daily membership
18 are enrolled in the alternative education program.
19 b. Subsection 2 by the number of students registered in the alternative
20 education program, times the per student payment provided for in section
21 15.1-27-04, if at least seventy-five but fewer than one hundred fifty students in
22 average daily membership are enrolled in the alternative education program.
23 c. Subsection 3 by the number of students registered in the alternative
24 education program, times the per student payment provided for in section
25 15.1-27-04, if at least one hundred fifty but fewer than five hundred fifty
26 students in average daily membership are enrolled in the alternative
27 education program.
28 d. Subsection 4 by the number of students registered in the alternative
29 education program, times the per student payment provided for in section
30 15.1-27-04, if at least five hundred fifty students in average daily membership
31 are enrolled in the alternative education program.

- 1 6. In order to be eligible for enumeration under this section, a student:
- 2 a. Must have completed the work of the eighth grade;
- 3 b. Must not have completed the work of the twelfth grade; and
- 4 c. Must be a resident of this state or a nonresident attending a school in this
- 5 state under the auspices of a foreign student exchange program.

6 **SECTION 10. AMENDMENT.** Section 15.1-27-07 of the North Dakota Century Code is

7 amended and reenacted as follows:

8 **15.1-27-07. Per student payments - Weighting factors - Elementary school**

9 **students.** The superintendent of public instruction shall make payments each year, as

10 provided for in this section, to each school district operating an elementary school and to each

11 school district contracting to educate elementary students in a federal school, subject to

12 adjustment as provided in section 15.1-27-21.

- 13 1. a. Each district having only a one-room rural school is entitled to receive the
- 14 amount of money that results from multiplying the factor 1.28 adjusted by
- 15 ~~seventy five~~ eighty-five percent of the difference between 1.28 and the factor
- 16 representing the five-year average cost of education per student for this
- 17 category, as determined by the superintendent of public instruction, by the
- 18 number of students in average daily membership in grades one through eight
- 19 in that school, times the per student payment provided for in section
- 20 15.1-27-04. Beginning July 1, 2004, the factor is that which represents the
- 21 five-year average cost of education per student in this category, as
- 22 determined by the superintendent of public instruction. The payment level
- 23 provided for in this subdivision is applicable only to the first sixteen students.
- 24 b. If the one-room rural school has more than sixteen students in average daily
- 25 membership in grades one through eight, the district in which the school is
- 26 located is entitled to receive ninety percent of the per student payment
- 27 provided for in section 15.1-27-04 for each additional student. The district is
- 28 not entitled to any payment for more than twenty students in average daily
- 29 membership.
- 30 c. If a one-room rural school is located in a district having another elementary
- 31 school, the weighting factor for the students in grades one through six must

- 1 be based on the average daily membership in the district in grades one
2 through six, as provided in this section.
- 3 d. If a one-room rural school is located in a school district with another school
4 that has students in grade seven or eight, the weighting factor for the students
5 in grade seven or eight must be the same as that provided for in subsection 5.
- 6 2. Except as provided in subsection 1, each school district having fewer than one
7 hundred students in average daily membership in grades one through six is
8 entitled to receive the amount of money that results from multiplying the factor 1.09
9 adjusted by ~~seventy-five~~ eighty-five percent of the difference between 1.09 and the
10 factor representing the five-year average cost of education per student for this
11 category, as determined by the superintendent of public instruction, by the number
12 of students in average daily membership in grades one through six in the district,
13 times the per student payment provided for in section 15.1-27-04. Beginning
14 July 1, 2004, the factor is that which represents the five-year average cost of
15 education per student in this category, as determined by the superintendent of
16 public instruction. The payment provided for in this subsection is applicable only to
17 the first twenty-five students in average daily membership per classroom or per
18 teacher.
- 19 3. Each school district having at least one hundred students but fewer than one
20 thousand students in average daily membership in grades one through six is
21 entitled to receive the amount of money that results from multiplying the factor .905
22 adjusted by ~~seventy-five~~ eighty-five percent of the difference between .905 and the
23 factor representing the five-year average cost of education per student for this
24 category, as determined by the superintendent of public instruction, by the number
25 of students in average daily membership in grades one through six in the district,
26 times the per student payment provided for in section 15.1-27-04. Beginning
27 July 1, 2004, the factor is that which represents the five-year average cost of
28 education per student in this category, as determined by the superintendent of
29 public instruction. The payment provided for in this subsection is applicable only to
30 the first thirty students in average daily membership per classroom or per teacher.

- 1 4. Each school district having at least one thousand students in average daily
2 membership in grades one through six is entitled to receive the amount of money
3 that results from multiplying the factor .95 adjusted by ~~seventy-five~~ eighty-five
4 percent of the difference between .95 and the factor representing the five-year
5 average cost of education per student for this category, as determined by the
6 superintendent of public instruction, by the number of students in average daily
7 membership in grades one through six in the district, times the per student
8 payment provided for in section 15.1-27-04. Beginning July 1, 2004, the factor is
9 that which represents the five-year average cost of the education per student in
10 this category, as determined by the superintendent of public instruction. The
11 payment provided for in this subsection is applicable only to the first thirty students
12 in average daily membership per classroom or per teacher.
- 13 5. Each school district having students in grades seven and eight is entitled to
14 receive the amount of money that results from multiplying the factor 1.01 adjusted
15 by ~~seventy-five~~ eighty-five percent of the difference between 1.01 and the factor
16 representing the five-year average cost of education per student for this category,
17 as determined by the superintendent of public instruction, by the number of
18 students in average daily membership in grades seven and eight in the district,
19 times the per student payment provided for in section 15.1-27-04. Beginning
20 July 1, 2004, the factor is that which represents the five-year average cost of
21 education per student in this category, as determined by the superintendent of
22 public instruction. The payment provided for in this subsection is applicable only to
23 the first thirty students in average daily membership per classroom or per teacher.
24 The payments provided for in this subsection are not available for students who
25 attend a one-room rural school if that school is the only one in the district that
26 offers educational services to students in grades seven and eight.
- 27 6. Each school district having a special education program approved by the director
28 of special education is entitled to receive, for each student who is enrolled in the
29 program and who is at least three years of age but less than the compulsory age
30 for school attendance, the amount of money that results from multiplying the factor
31 1.01 adjusted by ~~seventy-five~~ eighty-five percent of the difference between 1.01

1 and the factor representing the five-year average cost of education per student for
2 this category, as determined by the superintendent of public instruction, by the
3 number of special education students in average daily membership in the program
4 who are at least three years of age but less than the compulsory age for school
5 attendance, times the per student payment provided for in section 15.1-27-04.
6 Beginning July 1, 2004, the factor is that which represents the five-year average
7 cost of education per student in this category, as determined by the superintendent
8 of public instruction.

9 7. a. Each school district operating a kindergarten as provided for in section
10 15.1-22-02 is entitled to receive the amount of money that results from
11 multiplying the factor .50 adjusted by ~~seventy-five~~ eighty-five percent of the
12 difference between .50 and the factor representing the five-year average cost
13 of education per student for this category, as determined by the
14 superintendent of public instruction, by the number of kindergarten students in
15 average daily membership in the district, times the per student payment
16 provided for in section 15.1-27-04. Beginning July 1, 2004, the factor is that
17 which represents the five-year average cost of education per student in this
18 category, as determined by the superintendent of public instruction. The
19 payment provided for in this subsection is applicable only to the first
20 twenty-five students in average daily membership per classroom or per
21 teacher.

22 b. In order to receive the full per student payment available under this section, a
23 district must operate a kindergarten program that provides the equivalent of
24 ninety full days of classroom instruction during a twelve-month period. A
25 district is entitled to a prorated payment under this section if it operates a
26 kindergarten program of shorter duration.

27 8. Each school district that educates students who are also enrolled in nonpublic
28 schools is entitled to receive proportionate payments under this section.

29 9. Each school district is entitled to receive as much in total payments for elementary
30 students as it would have received if it had the highest number of students in the
31 next lower category.

- 1 10. A school district is not entitled to any payments provided for by this chapter unless
2 each teacher employed by the district:
- 3 a. Holds a teaching license issued by the education standards and practices
4 board; or
- 5 b. Has been approved to teach by the education standards and practices board.

6 **SECTION 11. AMENDMENT.** Subsection 1 of section 15.1-27-10 of the North Dakota
7 Century Code is amended and reenacted as follows:

- 8 1. Except as provided in subsection 2, each biennium the superintendent of public
9 instruction shall distribute moneys appropriated by the legislative assembly for per
10 student special education payments to each school district in the state on the basis
11 of students in average daily membership. The superintendent of public instruction
12 shall forward the payments, as calculated under section 15.1-27-05, to eligible
13 school districts in the same manner and at the same time that the superintendent
14 distributes ~~per student and transportation~~ state aid payments. For purposes of this
15 section, "special education" means the provision of special services to students
16 who have special needs, including students who are gifted and talented.
17 Expenditures under this section may not conflict with nonsupplanting and
18 maintenance of effort provisions under the Individuals With Disabilities Education
19 Act, 20 United States Code 1400 et seq.

20 **SECTION 12. AMENDMENT.** Subsection 4 of section 15.1-27-19 of the North Dakota
21 Century Code is amended and reenacted as follows:

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

1 **SECTION 13. AMENDMENT.** Subsection 4 of section 15.1-27-21 of the North Dakota
2 Century Code is amended and reenacted as follows:

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

6 **SECTION 14. AMENDMENT.** Section 15.1-27-34 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **15.1-27-34. Transfer of funds prohibited - Youth correctional center.** The
9 superintendent of public instruction may not transfer any portion of the funds appropriated for
10 ~~per student state aid~~ payments ~~and transportation aid~~ to the youth correctional center to
11 support the provision of educational services by the youth correctional center.

12 **SECTION 15. AMENDMENT.** Section 15.1-27-37 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **15.1-27-37. Compensation of teachers - Claim for reimbursement - Rules.**

15 1. On or before October first of each year or within thirty days after the conclusion of
16 the negotiation process provided for in chapter 15.1-16, the board of a school
17 district may file a claim with the superintendent of public instruction for the
18 reimbursement of moneys to be expended by the district during the school year to
19 ~~increase the~~ at least maintain the level of compensation ~~of~~ provided to teachers
20 employed by the district during the 2002-03 school year.

21 2. The claim must include:

22 a. The number of full-time equivalent teachers employed by the district as of
23 September fifteenth;

24 b. The number of full-time equivalent teachers ~~who will receive an increase in~~
25 ~~compensation over the amount paid during the previous~~ whose level of
26 compensation will be at least equal to that provided during the 2002-03
27 school year; and

28 c. The total amount of ~~the increase in~~ any compensation increases provided to
29 full-time equivalent teachers over the level of compensation provided during
30 the 2002-03 school year.

- 1 3. a. For the ~~2001-02~~ 2003-04 school year, the reimbursement provided for in this
2 section may not exceed ~~one thousand dollars multiplied by the number of~~
3 ~~full-time equivalent teachers employed by the district as of September 15,~~
4 ~~2001~~.
- 5 b. ~~Except as provided in subdivision c, for the 2002-03 school year, the~~
6 reimbursement provided for in this section may not exceed three thousand
7 dollars multiplied by the number of full-time equivalent teachers employed by
8 the district as of September 15, ~~2002~~ 2003.
- 9 b. For the 2004-05 school year, the reimbursement provided for in this section
10 may not exceed three thousand dollars multiplied by the number of full-time
11 equivalent teachers employed by the district as of September 15, 2004.
- 12 c. For the ~~2002-03~~ 2003-04 school year, the reimbursement under this section
13 for each individual employed as of September 15, ~~2002~~ 2003, as a full-time
14 equivalent teacher for the first school year since becoming licensed to teach
15 by the education standards and practices board or approved to teach by the
16 education standards and practices board, may not exceed one thousand
17 dollars.
- 18 d. For the 2003-04 school year, the reimbursement under this section for each
19 individual employed as of September 15, 2004, as a full-time equivalent
20 teacher for the first school year since becoming licensed to teach by the
21 education standards and practices board or approved to teach by the
22 education standards and practices board, may not exceed one thousand
23 dollars.
- 24 4. For purposes of this section, the claim of a district may include proportionate
25 expenditures made by the district to compensate individuals employed as teachers
26 by the special education unit or the area vocational and technology center to which
27 the district belongs.
- 28 5. The superintendent of public instruction may adopt rules regarding claims for and
29 the payment of reimbursements under this section.

30 **SECTION 16. AMENDMENT.** Section 15.1-27-39 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **15.1-27-39. Annual salary - Minimum amount.**

2 1. Beginning with the ~~2001-02~~ 2003-04 school year, the board of each school district
3 shall provide to each full-time teacher, under contract for a period of nine months;

4 a:

5 a. A minimum salary level of salary for the contract period equal to at least
6 ~~eighteen~~ twenty-one thousand five hundred dollars; or

7 b. Total compensation for the contract period equal to at least twenty-six
8 thousand dollars.

9 2. Beginning with the ~~2002-03~~ 2004-05 school year, the board of each school district
10 shall provide to each full-time teacher, under contract for a period of nine months;

11 a base:

12 a. A minimum salary level for the contract period equal to at least ~~twenty~~
13 twenty-two thousand five hundred dollars; or

14 b. Total compensation for the contract period equal to at least twenty-seven
15 thousand five hundred dollars.

16 **SECTION 17. AMENDMENT.** Section 15.1-29-01 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **15.1-29-01. Education of students in bordering states - Payment of tuition.**

19 1. Students may attend a school in a bordering state in accordance with section
20 15.1-29-02 under the following circumstances:

21 a. A student who lives within forty miles [64.37 kilometers] of another state or in
22 a county bordering on another state may, with the approval of the school
23 board, attend a public school in a bordering state.

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

27 c. A student whose sibling attended an out-of-state school during or before the
28 1990-91 school year must be permitted to attend school in the district the
29 sibling attended in the bordering state.

30 2. If the school board of the district in which the student resides denies a request for
31 a student's attendance in and payment of tuition to another state, the student's

- 1 parent may appeal the decision to the three-member committee referenced in
2 section 15.1-29-06.
- 3 a. If the three-member committee determines that the student meets the terms
4 of subdivision b or c of subsection 1, the student may attend school in the
5 bordering state and the board of the student's school district of residence
6 shall pay the tuition.
- 7 b. If the three-member committee determines the student falls within the terms
8 of subdivision a of subsection 1, then the three-member committee shall
9 make its decision using the criteria specified in section 15.1-29-06.
- 10 c. Notwithstanding the provisions of this section, if a student's school district of
11 residence does not provide for the education of kindergarten students, the
12 district may not pay tuition for a kindergarten student to attend school in a
13 bordering state.
- 14 d. Any decision by the three-member committee regarding the payment of tuition
15 for high school, elementary, or kindergarten students may be appealed by the
16 school board or by the student's parent to the state board of public school
17 education. A decision by the state board is final.
- 18 3. a. The superintendent of public instruction shall forward all ~~per student and~~
19 ~~transportation state~~ aid payments for a student attending an out-of-state
20 school to the student's school district of residence.
- 21 b. The student's district of residence may reduce any tuition payment it must
22 make to an out-of-state school by an amount commensurate with the tuition
23 costs the district would be entitled to receive as compensation for a student
24 from the out-of-state district enrolled in its school.
- 25 e. ~~Transportation payments for a student attending school in a bordering state~~
26 ~~must be determined as provided in section 15.1-27-27.~~
- 27 4. Nothing in this section requires that a school district of residence provide student
28 transportation or payments in lieu of transportation for students attending
29 out-of-state schools.

30 **SECTION 18. AMENDMENT.** Subsection 4 of section 15.1-29-06 of the North Dakota
31 Century Code is amended and reenacted as follows:

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

6 **SECTION 19. AMENDMENT.** Section 15.1-29-13 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **15.1-29-13. Tuition payments - Nonresident students.**

- 9 1. a. Except as provided in this subsection, the board of a school district that
10 admits a nonresident student shall charge and collect tuition for the student.
11 Either the student's district of residence shall pay the tuition to the admitting
12 district in accordance with section 15.1-29-12 or the student's parent shall pay
13 the tuition to the admitting district in accordance with section 15.1-29-07.
- 14 b. A board may charge tuition for nonresident students enrolled in an approved
15 alternative education program.
- 16 c. Except as otherwise provided, if a school district fails to charge and collect
17 tuition for a nonresident student, the districts shall forfeit any ~~per student~~
18 ~~payment and transportation~~ state aid otherwise payable for the nonresident
19 student.
- 20 2. a. The board of a school district may admit a nonresident student from another
21 district in this state offering the same grade level as that in which the student
22 is enrolled without a charge and collection of tuition if the sending and
23 admitting districts have entered into a written contract regarding the student's
24 admission.
- 25 b. For purposes of determining whether the same grade level is offered, two or
26 more school districts cooperating with each other for the joint provision of
27 educational services under a plan approved by the superintendent of public
28 instruction must be considered to be a single district.
- 29 c. The contract must specify whether transportation is to be provided and, if so,
30 by which district. If a school district of residence does not provide
31 transportation to the student, it may be provided by the admitting district and

1 the admitting district is then entitled to state payments for the transportation of
2 the student.

3 d. A contract is not necessary if the nonresident student is enrolled in an
4 approved alternative education program for which no tuition is charged.

5 e. A school district may admit a nonresident student described in section
6 15.1-31-07 from another school district in this state without a charge and
7 collection of tuition and without a written agreement.

8 3. A school district may not charge or collect from a nonresident student, the
9 student's parent, or the student's district of residence any fees or charges not
10 otherwise assessed to all resident students.

11 **SECTION 20. AMENDMENT.** Section 15.1-29-14 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **15.1-29-14. Student placement for noneducational purposes - Residency**
14 **determination - Payment of tuition.**

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

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

21 b. At the time a county or state social service agency places the student, with
22 the consent of the student's parent or legal guardian, at a state-licensed foster
23 home or at a state-licensed child care home or facility;

24 c. At the time the student is initially placed in a state-operated institution, even if
25 the student is later placed at a state-licensed foster home or at a
26 state-licensed child care home or facility; or

27 d. At the time the student is voluntarily admitted to a state-operated institution or
28 to a state-licensed child care home or facility.

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

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

- 1 b. All charges for tutoring services upon claim of an admitting facility, provided
2 that the tutoring services are delivered by an individual who is licensed to
3 teach by the education standards and practices board or approved to teach
4 by the education standards and practices board.
- 5 3. a. If, after a student placement is made as provided for under subsection 1, the
6 student's custodial parent establishes residency in another school district in
7 this state, the school district in which the custodial parent has established
8 residency becomes the student's school district of residence for purposes of
9 paying tuition and tutoring charges under subsection 2.
- 10 b. The state shall pay the tuition and tutoring charges under subsection 2 from
11 funds appropriated by the legislative assembly for ~~per student and~~
12 ~~transportation~~ state aid to schools:
- 13 (1) If, after a student placement is made as provided for under
14 subsection 1, the student's custodial parent establishes residency
15 outside this state; or
- 16 (2) If a court orders a termination of parental rights with respect to the
17 student's parents.
- 18 4. If the student is voluntarily admitted to a state-licensed child care home or facility,
19 or to a state-operated institution, the student's parent or, if one has been
20 appointed, the student's legal guardian may appeal a determination under section
21 15.1-29-05 regarding the payment of tuition by filing a petition with the county
22 superintendent of schools. Within fifteen days of receiving the petition, the
23 three-member committee established under section 15.1-29-06 shall consult with
24 the boards of the affected school districts and with the student's parent or legal
25 guardian and render a decision regarding responsibility for the payment of tuition
26 charges.
- 27 5. If the student's district of residence does not pay the required tuition, the admitting
28 district or facility shall notify the superintendent of public instruction. Upon
29 verification that tuition payments are due and unpaid, the superintendent shall
30 withhold an amount equal to the unpaid tuition from ~~per student payments and~~

- 1 ~~transportation~~ state aid otherwise payable to the student's school district of
2 residence until the tuition due has been fully paid.
- 3 6. An amount equal to the state average per student elementary or high school cost,
4 depending on the student's grade of enrollment, is payable to the admitting district
5 or facility as part of the cost of educating the student for the school year. The
6 payment may not exceed the actual per student cost incurred by the admitting
7 district or facility. The remainder of the actual cost of educating the student not
8 covered by other payments or credits must be paid by the state, within the limits of
9 legislative appropriations, from funds appropriated for special education in the
10 case of a student with disabilities or from ~~funds appropriated for per student~~ state
11 aid payments ~~and transportation aid to schools~~ in all other cases.
- 12 7. If a student with disabilities placed in accordance with this section reaches age
13 eighteen and continues to receive special education and related services, the
14 student's school district of residence is deemed to be the same as that of the
15 student's custodial parent until the special education services are concluded. If the
16 student's custodial parent establishes residency outside this state, or if a court
17 orders a termination of parental rights with respect to the student's parents, the
18 state shall pay the tuition and tutoring charges under subsection 2 from funds
19 appropriated by the legislative assembly for ~~per student and transportation~~ state
20 aid to schools.
- 21 8. a. The placing agency shall provide written notice regarding an initial placement
22 and all subsequent placements of a student, by registered mail, to the
23 superintendent of the student's school district of residence and to the
24 superintendent of the admitting district:
- 25 (1) Within five working days after a placement is made under court order;
26 (2) Within five working days after an emergency placement is made; or
27 (3) At least ten working days prior to any other placement.
- 28 b. The written notice must include any information requested by the
29 superintendent of public instruction for purposes of determining payment
30 responsibility.

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

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

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

10 **SECTION 21. AMENDMENT.** Subsection 1 of section 15.1-30-01 of the North Dakota
11 Century Code is amended and reenacted as follows:

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

18 **SECTION 22. AMENDMENT.** Section 15.1-30-05 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **15.1-30-05. Schoolbus transportation services - Optional fee.** The board of a
21 school district that has not been reorganized may charge a fee for the provision of schoolbus
22 transportation service to students. ~~If the service began before July 1, 1981, the total fees~~
23 ~~charged may not exceed an amount equal to the difference between the state transportation~~
24 ~~payment and the lesser of the state average cost for transportation or the district's cost during~~
25 ~~the preceding school year. If the service started on or after July 1, 1981, the total fees charged~~
26 ~~may not exceed an amount equal to the difference between the state transportation payment~~
27 ~~and the school district's cost of transportation during the preceding school year. A district that~~
28 ~~has not previously provided transportation to students shall base its fees on estimated costs~~
29 ~~during the first year transportation is provided.~~

30 **SECTION 23. AMENDMENT.** Subsection 2 of section 15.1-30-15 of the North Dakota
31 Century Code is amended and reenacted as follows:

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

12 **SECTION 24. AMENDMENT.** Section 15.1-31-05 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **15.1-31-05. Open enrollment - Transportation.** A school district of residence may
15 provide transportation to a student participating in open enrollment. If a district of residence
16 does not provide transportation to a student participating in open enrollment, transportation
17 may be provided by the admitting district, ~~and the admitting district is then entitled to state
18 payments for the transportation of that student.~~

19 **SECTION 25. AMENDMENT.** Section 15.1-31-06 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **15.1-31-06. Open enrollment - School boards - Standards.**

- 22 1. The board of each school district shall set standards for the acceptance and denial
23 of applications for admittance under open enrollment as provided in section
24 15.1-31-01. The standards may address the capacity of a program, class, grade
25 level, or school building. The standards may not address previous academic
26 achievement, participation in extracurricular activities, disabilities, English
27 language proficiency, or previous disciplinary proceedings.
- 28 2. A board may also determine that applications for admittance under open
29 enrollment, in accordance with this chapter, will not be considered.
- 30 3. a. A school district participating in an open enrollment program may not give or
31 offer to give a student remuneration, or directly exert influence on the student

1 or the student's family, in order to encourage participation in the open
2 enrollment program.

3 b. For purposes of this subsection, directly exerting influence means providing
4 information about the school district to individuals who are not residents of
5 that district unless the information is requested.

6 c. If the members of the board of a school district believe that another school
7 district has violated this subsection, the board may file a complaint with the
8 superintendent of public instruction. Upon receipt of a complaint alleging a
9 violation of this subsection, the superintendent of public instruction shall hold
10 a hearing and accept testimony and evidence regarding the complaint. If the
11 superintendent finds that a school district has violated this subsection, the
12 superintendent may withhold some or all of the ~~transportation~~ state aid
13 payments to which the district would be otherwise entitled for a period of one
14 year from the date of the finding. A decision by the superintendent under this
15 subsection is appealable to the state board of public school education. A
16 decision by the state board of public school education is final.

17 **SECTION 26. AMENDMENT.** Section 15.1-32-16 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **15.1-32-16. Transportation services - State reimbursement.** If a student's
20 individualized education program or services plan requires the provision of transportation
21 services, the student's school district of residence shall provide the services by any reasonably
22 prudent means, including a regularly scheduled schoolbus, public transit, commercial
23 transportation, chartered or other contracted transportation, and transportation provided by the
24 student's parent or other responsible party. ~~The school district is entitled to state~~
25 ~~reimbursement for the provision of transportation services to the student. If transportation is~~
26 ~~provided by a student's parent, the superintendent may reimburse the school district only for~~
27 ~~mileage costs.~~

28 **SECTION 27. TRANSPORTATION GRANTS - DISTRIBUTION.**

29 1. The superintendent of public instruction shall distribute from the grants - state
30 school aid line item in Senate Bill No. 2013, as approved by the fifty-eighth
31 legislative assembly, to each school district in the state an amount equal to the

- 1 state transportation aid payments received by the school district during the
2 2001-03 biennium.
- 3 2. If two or more school districts reorganize into a single district on or after July 1,
4 2003, the superintendent of public instruction shall forward to the newly
5 reorganized district an amount equal to the transportation payments received by
6 each of the districts participating in the reorganization during the 2001-03
7 biennium.
- 8 3. If a school district that received transportation payments during the 2001-03
9 biennium dissolves on or after July 1, 2003, the superintendent of public instruction
10 shall forward a percentage of the amount equal to that which the dissolved district
11 received for transportation aid payments during the 2001-03 biennium to each
12 school district that enrolls students who attended the dissolved school district
13 during its final year of operation. Each school district eligible for payment under
14 this subsection is entitled to receive that percentage of the total amount payable
15 which is the same as the percentage that the number of district's students who
16 attended the dissolved school district during its final year of operation bears to the
17 total number of students who attended the dissolved school district during its final
18 year of operation.
- 19 4. During each year of the 2003-05 biennium, the superintendent of public instruction
20 shall distribute one-half of the payments required by this section to school districts
21 at the same time and in the same manner as required for state aid payments under
22 section 15.1-27-01.

23 **SECTION 28. LEGISLATIVE COUNCIL STUDY.** The legislative council shall consider
24 studying the manner in which elementary and secondary education is funded in this state and
25 the feasibility and desirability of instituting alternative funding methods. If the legislative council
26 conducts this study, the legislative council shall report its findings and recommendations,
27 together with any legislation required to implement the recommendations, to the fifty-ninth
28 legislative assembly.

29 **SECTION 29. APPROPRIATION - REORGANIZATION BONUSES.** There is
30 appropriated out of any moneys in the general fund in the state treasury, not otherwise
31 appropriated, the sum of \$500,000, or so much of the sum as may be necessary, to the

1 superintendent of public instruction for the purpose of providing a reorganization bonus to any
2 school district having a reorganization effective on July 1, 2003, pursuant to section
3 15.1-12-11.1, for the biennium beginning July 1, 2003, and ending June 30, 2005.

4 **SECTION 30. CONTINGENT PAYMENTS - ADDITIONAL PER STUDENT**

5 **PAYMENTS.** If the superintendent of public instruction determines that the amount
6 appropriated for per student payments and transportation payments in the grants - state school
7 aid line item in Senate Bill No. 2013 will exceed the total of all statutory obligations for per
8 student and transportation payments during the biennium beginning July 1, 2003, and ending
9 June 30, 2005, the superintendent shall distribute the remaining funds as additional per student
10 payments on a prorated basis, according to average daily membership of each school district
11 during the 2004-05 school year.

12 **SECTION 31. CONTINGENT PAYMENTS - TEACHER COMPENSATION**

13 **REIMBURSEMENT PAYMENTS - ADDITIONAL PER STUDENT PAYMENTS.** If the
14 superintendent of public instruction determines that the amount appropriated for teacher
15 compensation payments in the grants - teacher compensation payments line item in Senate Bill
16 No. 2013 will exceed the total of all statutory obligations for teacher compensation
17 reimbursement payments during the biennium beginning July 1, 2003, and ending June 30,
18 2005, the superintendent shall distribute the remaining funds as additional per student
19 payments on a prorated basis, according to the average daily membership of each school
20 district during the 2004-05 school year.

21 **SECTION 32. APPROPRIATION.** There is appropriated out of any moneys in the

22 general fund in the state treasury, not otherwise appropriated, the sum of \$4,500,000, or so
23 much of the sum as may be necessary, to the superintendent of public instruction for the
24 purpose of providing supplemental payments to school districts under section 15.1-27-11, for
25 the biennium beginning July 1, 2003, and ending June 30, 2005.

26 **SECTION 33. REPEAL.** Sections 15.1-27-26, 15.1-27-27, 15.1-27-28, 15.1-27-29,
27 15.1-27-30, and 15.1-27-31 of the North Dakota Century Code are repealed.

28 **SECTION 34. EFFECTIVE DATE.** Section 3 of this Act is effective for taxable years
29 beginning after December 31, 2003.