

**Sixty-seventh Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 5, 2021**

HOUSE BILL NO. 1388  
(Representative Owens)  
(Senator Schaible)

AN ACT to create and enact a new subsection to section 15.1-06-04, a new section to chapter 15.1-07, a new section to chapter 15.1-13, and a new section to chapter 15.1-21 of the North Dakota Century Code, relating to virtual learning, school calendar length, reading competency requirements, and teacher professional development and licensure; to amend and reenact subsection 4 of section 15.1-06-04, subdivision e of subsection 1 of section 15.1-06-06, section 15.1-06-13, subsection 2 of section 15.1-09.1-02.1, and sections 15.1-20-01, 15.1-27-03.2, 15.1-27-04.1, 15.1-27-35, and 15.1-31-07 of the North Dakota Century Code, relating to membership of the kindergarten through grade twelve education coordination council, adjustments to school district size weighting factors, the education foundation aid funding formula transition maximum and payment rates, student attendance and enrollment, school approval, school compliance, regional education association services, average daily membership, and school calendars; to provide for a legislative management study; to provide for a kindergarten through grade twelve education coordination council study; to provide for a legislative management report; to provide an effective date; and to declare an emergency.

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

**SECTION 1. AMENDMENT.** Subsection 4 of section 15.1-06-04 of the North Dakota Century Code is amended and reenacted as follows:

4. For purposes of this section, a full day of instruction at a physical school plant consists of:
  - a. At least five and one-half hours for kindergarten and elementary students, during which time the students are required to be in attendance for the purpose of receiving curricular instruction; and
  - b. At least six hours for high school students, during which time the students are required to be in attendance for the purpose of receiving curricular instruction.

**SECTION 2.** A new subsection to section 15.1-06-04 of the North Dakota Century Code is created and enacted as follows:

If a school district intends to provide virtual instruction, the instruction must comply with the requirements under subsection 4. The attendance of students participating in virtual instruction must be verified by monitoring the student's progress on academic pacing guides developed by the school district to ensure students are in attendance and receiving sufficient curricular instruction, as defined in rules adopted by the superintendent of public instruction.

**SECTION 3. AMENDMENT.** Subdivision e of subsection 1 of section 15.1-06-06 of the North Dakota Century Code is amended and reenacted as follows:

- e. The physical school plant has been inspected by the state fire marshal or the state fire marshal's designee in accordance with section 15.1-06-09 and:
  - (1) Has no unremedied deficiency; or
  - (2) Has deficiencies that have been addressed in a plan of correction which was submitted to and approved by the state fire marshal or the state fire marshal's designee;

**SECTION 4. AMENDMENT.** Section 15.1-06-13 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-06-13. Schools - Compliance with health, safety, and sanitation requirements.**

The superintendent of each school district shall ensure that the ~~schools~~physical school plants in the district comply with all health, safety, and sanitation requirements.

**SECTION 5.** A new section to chapter 15.1-07 of the North Dakota Century Code is created and enacted as follows:

**School districts - Policy - Virtual learning - Report to legislative management.**

The board of a school district or governing board of a nonpublic school that operates a physical school plant may adopt a policy to allow students to engage in virtual instruction and in the case of a school district, qualify for average daily membership in the district. The superintendent of public instruction shall adopt rules governing policies under this section. A policy adopted by a school district under this section must comply with the rules adopted by the superintendent of public instruction. The superintendent of public instruction shall provide biennial reports to the legislative management regarding the academic performance metrics of students participating in virtual instruction under this section.

**SECTION 6. AMENDMENT.** Subsection 2 of section 15.1-09.1-02.1 of the North Dakota Century Code is amended and reenacted as follows:

2. Subsection 1 does not preclude a regional education association from offering additional services to ~~its member districts~~.

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

**Teaching license - Reading instruction competency.**

1. The board shall ensure a candidate for teacher licensure demonstrates competencies in beginning reading instruction based on scientifically and research-based best practices. Competencies must include the acquisition of knowledge of the essential components of beginning reading instruction, including:
  - a. Phonemic awareness;
  - b. Phonics;
  - c. Fluency;
  - d. Vocabulary;
  - e. Comprehension;
  - f. How to assess student reading ability; and
  - g. How to identify and correct reading difficulties.
2. A prekindergarten, kindergarten, elementary, and special education initial teacher licensure candidate must provide evidence that the candidate meets the competency standards of the components under subsection 1.
3. A prekindergarten through grade twelve and a secondary education initial teacher licensure candidate must provide evidence that the candidate meets the competency standards of the components under subsection 1.

4. A teacher licensure candidate satisfies the requirements of this section if the candidate demonstrates the candidate has received training in competencies related to reading instruction from an accredited or approved program, or demonstrates mastery of the topics provided under subsection 1. The board may issue a provisional license for up to two years to a teacher licensure candidate who does not meet the requirements of this section.

**SECTION 8. AMENDMENT.** Section 15.1-20-01 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-20-01. Compulsory attendance.**

1. Any person having responsibility for a child between the ages of seven and sixteen years shall ensure that the child ~~is in attendance at~~attends a public school for the duration of each school year.
2. If a person enrolls a child of age six in a public school, the person shall ensure that the child is ~~in attendance at~~attends the public school for the duration of each school year. The person may withdraw a child of age six from the public school. However, once the child is withdrawn, the person may not re-enroll the child until the following school year. This subsection does not apply if the reason for the withdrawal is the child's relocation to another school district.
3. This section does not apply if a child is exempted under the provisions of section 15.1-20-02.
4. The attendance of students participating in virtual instruction must be verified by monitoring the student's progress on academic pacing guides developed by the school district to ensure students are in attendance and receiving sufficient curricular instruction, as defined in rules adopted by the superintendent of public instruction.

**SECTION 9.** A new section to chapter 15.1-21 of the North Dakota Century Code is created and enacted as follows:

**Reading curriculum - Content - Professional development - Reports to legislative management.**

1. Beginning July 1, 2022, each school district and nonpublic school shall ensure the portion of its curriculum which is related to reading:
  - a. Is scientifically based, evidence based, and research based;
  - b. Focuses on:
    - (1) Phonemic awareness;
    - (2) Phonics;
    - (3) Fluency;
    - (4) Vocabulary; and
    - (5) Comprehension; and
  - c. Uses systematic direct instruction for students in kindergarten through grade three to ensure all students obtain necessary early reading skills.
2. Before the 2022-23 school year, each teacher who teaches kindergarten through grade three at a school district or nonpublic school, and each principal of a public or nonpublic school with kindergarten through grade three, shall attend teacher-approved, professional development training that includes training in the topics provided under subsection 1.

3. Each teacher or principal hired by a school district or nonpublic school that provides instruction in kindergarten through grade three shall complete the training under subsection 2, or demonstrate mastery of the topics provided under subsection 1, within one year of the teacher's or principal's first year of placement in the grade level or at the school.
4. To be approved by the superintendent of public instruction, each public and nonpublic school shall certify to the superintendent of public instruction that the district or school:
  - a. Ensures the placement of highly effective teachers in kindergarten through grade three;
  - b. Has integrated reading instruments used to diagnose reading development and comprehension; and
  - c. Has integrated evidence-based resources to support reading development and comprehension.
5. The superintendent of public instruction shall provide ongoing assistance to school districts and nonpublic schools to be in and maintain compliance with this section.
6. The superintendent of public instruction, in collaboration with the kindergarten through grade twelve education coordination council, shall adopt rules to implement this section, including rules to monitor implementation and compliance with this section.
7. The superintendent of public instruction shall provide periodic reports to the legislative management on the implementation and effectiveness of this section in improving educational outcomes and reading competency of students.

**SECTION 10. AMENDMENT.** Section 15.1-27-03.2 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-27-03.2. School district size weighting factor - Weighted student units.**

1. For each high school district in the state, the superintendent of public instruction shall assign a baseline school district size weighting factor of:
  - a. 1.36 if the students in average daily membership number fewer than 110;
  - b. 1.35 if the students in average daily membership number at least 110 but fewer than 125;
  - c. 1.34 if the students in average daily membership number at least 125 but fewer than 130;
  - d. 1.33 if the students in average daily membership number at least 130 but fewer than 135;
  - e. 1.32 if the students in average daily membership number at least 135 but fewer than 140;
  - f. 1.31 if the students in average daily membership number at least 140 but fewer than 145;
  - g. 1.30 if the students in average daily membership number at least 145 but fewer than 150;
  - h. 1.29 if the students in average daily membership number at least 150 but fewer than 155;
  - i. 1.28 if the students in average daily membership number at least 155 but fewer than 160;
  - j. 1.27 if the students in average daily membership number at least 160 but fewer than 165;
  - k. 1.26 if the students in average daily membership number at least 165 but fewer than 175;
  - l. 1.25 if the students in average daily membership number at least 175 but fewer than 185;
  - m. 1.24 if the students in average daily membership number at least 185 but fewer than 200;

- n. 1.23 if the students in average daily membership number at least 200 but fewer than 215;
  - o. 1.22 if the students in average daily membership number at least 215 but fewer than 230;
  - p. 1.21 if the students in average daily membership number at least 230 but fewer than 245;
  - q. 1.20 if the students in average daily membership number at least 245 but fewer than 260;
  - r. 1.19 if the students in average daily membership number at least 260 but fewer than 270;
  - s. 1.18 if the students in average daily membership number at least 270 but fewer than 275;
  - t. 1.17 if the students in average daily membership number at least 275 but fewer than 280;
  - u. 1.16 if the students in average daily membership number at least 280 but fewer than 285;
  - v. 1.15 if the students in average daily membership number at least 285 but fewer than 290;
  - w. 1.14 if the students in average daily membership number at least 290 but fewer than 295;
  - x. 1.13 if the students in average daily membership number at least 295 but fewer than 300;
  - y. 1.12 if the students in average daily membership number at least 300 but fewer than 305;
  - z. 1.11 if the students in average daily membership number at least 305 but fewer than 310;
  - aa. 1.10 if the students in average daily membership number at least 310 but fewer than 320;
  - bb. 1.09 if the students in average daily membership number at least 320 but fewer than 335;
  - cc. 1.08 if the students in average daily membership number at least 335 but fewer than 350;
  - dd. 1.07 if the students in average daily membership number at least 350 but fewer than 360;
  - ee. 1.06 if the students in average daily membership number at least 360 but fewer than 370;
  - ff. 1.05 if the students in average daily membership number at least 370 but fewer than 380;
  - gg. 1.04 if the students in average daily membership number at least 380 but fewer than 390;
  - hh. 1.03 if the students in average daily membership number at least 390 but fewer than 400;
  - ii. 1.02 if the students in average daily membership number at least 400 but fewer than 600;
  - jj. 1.01 if the students in average daily membership number at least 600 but fewer than 900;  
and
  - kk. 1.00 if the students in average daily membership number at least 900.
2. For each elementary district in the stateBeginning with the 2021-22 school year and each school year thereafter until the 2027-28 school year, the superintendent of public instruction shall assign a school district size weighting factor determined by increasing the baseline weighting factor under subsection 1 each year by fourteen and twenty-nine hundredths percent of the difference between the weighting factor under this subsection and the baseline weighting factor under subsection 1 for the same school district size. For the 2027-28 school year and each school year thereafter, the superintendent of public instruction shall assign a school district size weighting factor of:
- a. 1.251.72 if the students in average daily membership number fewer than 425110;

- b. ~~4.17~~1.68 if the students in average daily membership number at least ~~125~~110 but fewer than ~~200~~125; and
- c. ~~4.00~~1.64 if the students in average daily membership number at least ~~200~~125 but fewer than 130;
- d. 1.60 if the students in average daily membership number at least 130 but fewer than 135;
- e. 1.56 if the students in average daily membership number at least 135 but fewer than 140;
- f. 1.52 if the students in average daily membership number at least 140 but fewer than 145;
- g. 1.49 if the students in average daily membership number at least 145 but fewer than 150;
- h. 1.45 if the students in average daily membership number at least 150 but fewer than 155;
- i. 1.42 if the students in average daily membership number at least 155 but fewer than 160;
- j. 1.39 if the students in average daily membership number at least 160 but fewer than 165;
- k. 1.36 if the students in average daily membership number at least 165 but fewer than 175;
- l. 1.33 if the students in average daily membership number at least 175 but fewer than 185;
- m. 1.30 if the students in average daily membership number at least 185 but fewer than 200;
- n. 1.27 if the students in average daily membership number at least 200 but fewer than 215;
- o. 1.25 if the students in average daily membership number at least 215 but fewer than 230;
- p. 1.22 if the students in average daily membership number at least 230 but fewer than 245;
- q. 1.20 if the students in average daily membership number at least 245 but fewer than 260;
- r. 1.19 if the students in average daily membership number at least 260 but fewer than 270;
- s. 1.18 if the students in average daily membership number at least 270 but fewer than 275;
- t. 1.17 if the students in average daily membership number at least 275 but fewer than 280;
- u. 1.16 if the students in average daily membership number at least 280 but fewer than 285;
- v. 1.15 if the students in average daily membership number at least 285 but fewer than 290;
- w. 1.14 if the students in average daily membership number at least 290 but fewer than 295;
- x. 1.13 if the students in average daily membership number at least 295 but fewer than 300;
- y. 1.12 if the students in average daily membership number at least 300 but fewer than 305;
- z. 1.11 if the students in average daily membership number at least 305 but fewer than 310;
- aa. 1.10 if the students in average daily membership number at least 310 but fewer than 320;
- bb. 1.09 if the students in average daily membership number at least 320 but fewer than 335;
- cc. 1.08 if the students in average daily membership number at least 335 but fewer than 350;
- dd. 1.07 if the students in average daily membership number at least 350 but fewer than 360;
- ee. 1.06 if the students in average daily membership number at least 360 but fewer than 370;

- ff. 1.05 if the students in average daily membership number at least 370 but fewer than 380;
  - gg. 1.04 if the students in average daily membership number at least 380 but fewer than 390;
  - hh. 1.03 if the students in average daily membership number at least 390 but fewer than 400;
    - ii. 1.02 if the students in average daily membership number at least 400 but fewer than 600;
    - jj. 1.01 if the students in average daily membership number at least 600 but fewer than 900;  
and
  - kk. 1.00 if the students in average daily membership number at least 900.
3. The superintendent of public instruction shall impute an average daily membership for each school district that does not include a high school and use the imputed average daily membership to determine the school district size weighting factor under this section. To determine the imputed average daily membership, the superintendent of public instruction shall divide the school district's average daily membership by 0.60.
4. The school district size weighting factor determined under this section and multiplied by a school district's weighted average daily membership equals the district's weighted student units. For the 2022-23 school year, for school districts that operate multiple kindergarten through grade twelve buildings at least nineteen miles [30.58 kilometers] apart, or multiple buildings at least nineteen miles [30.58 kilometers] apart with no replicated grades, the superintendent of public instruction shall determine the school size weighting factor for each building separately. The superintendent of public instruction shall multiply the school size weighting factor for each building by the school district's weighted average daily membership to determine each building's weighted student units. The superintendent of public instruction shall combine the weighted student units of all buildings in the school district to determine the school district's weighted student units.
- 4.5. Notwithstanding the provisions of this section, the school district size weighting factor assigned to a district may not be less than the factor arrived at when the highest number of students possible in average daily membership is multiplied by the school district size weighting factor for the subdivision immediately preceding the district's actual subdivision and then divided by the district's average daily membership.

**SECTION 11. AMENDMENT.** Section 15.1-27-04.1 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-27-04.1. Baseline funding - Establishment - Determination of state aid. (Effective through June 30, 2025)**

1. To determine the amount of state aid payable to each district, the superintendent of public instruction shall establish each district's baseline funding. A district's baseline funding consists of:
  - a. All state aid received by the district in accordance with chapter 15.1-27 during the 2018-19 school year;
  - b. An amount equal to the property tax deducted by the superintendent of public instruction to determine the 2018-19 state aid payment;
  - c. An amount equal to seventy-five percent of the revenue received by the school district during the 2017-18 school year for the following revenue types:
    - (1) Revenue reported under code 2000 of the North Dakota school district financial accounting and reporting manual, as developed by the superintendent of public instruction in accordance with section 15.1-02-08;

- (2) Mineral revenue received by the school district through direct allocation from the state treasurer and not reported under code 2000 of the North Dakota school district financial accounting and reporting manual, as developed by the superintendent of public instruction in accordance with section 15.1-02-08;
  - (3) Tuition reported under code 1300 of the North Dakota school district financial accounting and reporting manual, as developed by the superintendent of public instruction in accordance with section 15.1-02-08, with the exception of revenue received specifically for the operation of an educational program provided at a residential treatment facility and tuition received for the provision of an adult farm management program;
  - (4) Revenue from payments in lieu of taxes on the distribution and transmission of electric power;
  - (5) Revenue from payments in lieu of taxes on electricity generated from sources other than coal;
  - (6) Revenue from the leasing of land acquired by the United States for which compensation is allocated to the state under 33 U.S.C. 701(c)(3); and
- d. An amount equal to the total revenue received by the school district during the 2017-18 school year for the following revenue types:
- (1) Mobile home tax revenue;
  - (2) Telecommunications tax revenue; and
  - (3) Revenue from payments in lieu of taxes and state reimbursement of the homestead credit and disabled veterans credit; and
- e. Beginning with the 2020-21 school year, the superintendent shall reduce the baseline funding for any school district that becomes an elementary district pursuant to section 15.1-07-27 after the 2012-13 school year. The reduction must be proportional to the number of weighted student units in the grades that are offered through another school district relative to the total number of weighted student units the school district offered in the year before the school district became an elementary district. The reduced baseline funding applies to the calculation of state aid for the first school year in which the school district becomes an elementary district and for each year thereafter. For districts that become an elementary district prior to the 2020-21 school year, the superintendent shall use the reduced baseline funding to calculate state aid for the 2020-21 school year and for each year thereafter.
2. a. The superintendent shall divide the district's baseline funding determined in subsection 1 by the district's 2017-18 weighted student units to determine the district's baseline funding per weighted student unit.
- b. For any school district that becomes an elementary district pursuant to section 15.1-07-27 after the 2017-18 school year, the superintendent shall adjust the district's baseline funding per weighted student unit used to calculate state aid. The superintendent shall divide the district's baseline funding determined in subsection 1 by the district's weighted student units after the school district becomes an elementary district to determine the district's adjusted baseline funding per weighted student unit. The superintendent shall use the district's adjusted baseline funding per weighted student unit in the calculation of state aid for the first school year in which the school district becomes an elementary district and for each year thereafter.



- c. Beginning with the 2021-22 school year and for each school year thereafter, the superintendent shall reduce the district's baseline funding per weighted student unit. Each year the superintendent shall calculate the amount by which the district's baseline funding per weighted student unit exceeds the payment per weighted student unit provided in subsection 3. The superintendent shall reduce the district's baseline funding per weighted student unit by fifteen percent of the amount by which the district's baseline funding per weighted student unit exceeds the payment per weighted student unit for the 2021-22 school year. For each year thereafter, the reduction percentage is increased by an additional fifteen percent. However, the district's baseline funding per weighted student unit, after the reduction, may not be less than the payment per weighted student unit provided in subsection 3.
3. a. For the ~~2019-20~~2021-22 school year, the superintendent shall calculate state aid as the greater of:
- (1) The district's weighted student units multiplied by ~~nine thousand eight hundred thirty-nine~~ten thousand one hundred thirty-six dollars;
  - (2) One hundred ~~one~~two percent of the district's baseline funding per weighted student unit, as established in subsection 2, multiplied by the district's weighted student units, not to exceed the district's 2017-18 baseline weighted student units, plus any weighted student units in excess of the 2017-18 baseline weighted student units multiplied by ~~nine thousand eight hundred thirty-nine~~ten thousand one hundred thirty-six dollars; or
  - (3) The district's baseline funding as established in subsection 1 less the amount in paragraph 1, with the difference reduced by fifteen percent and then the difference added to the amount determined in paragraph 1.
- b. For the ~~2020-21~~2022-23 school year and each school year thereafter, the superintendent shall calculate state aid as the greater of:
- (1) The district's weighted student units multiplied by ~~ten thousand thirty-six~~two hundred thirty-seven dollars;
  - (2) One hundred two percent of the district's baseline funding per weighted student unit, as established in subsection 2, multiplied by the district's weighted student units, not to exceed the district's 2017-18 baseline weighted student units, plus any weighted student units in excess of the 2017-18 baseline weighted student units multiplied by ~~ten thousand thirty-six~~two hundred thirty-seven dollars; or
  - (3) The district's baseline funding as established in subsection 1 less the amount in paragraph 1, with the difference reduced by ~~fifteen~~thirty percent for the ~~2021-22~~2022-23 school year and the reduction percentage increasing by fifteen percent each school year thereafter until the difference is reduced to zero, and then the difference added to the amount determined in paragraph 1.
- c. The superintendent also shall adjust state aid determined in this subsection to ensure the amount does not exceed the transition maximum as follows:
- (1) For the ~~2019-20~~2021-22 school year, ~~to ensure the amount does not exceed the transition maximum rate is~~ one hundred ~~five~~ten percent of the district's baseline funding per weighted student unit, as established in subsection 2, multiplied by the district's weighted student units from the previous school year.
  - (2) For the ~~2020-21~~2022-23 school year ~~and each school year thereafter, to ensure the amount does not exceed the transition maximum rate is~~ one hundred ten percent of the district's baseline funding per weighted student unit, as established in

subsection 2, multiplied by the district's weighted student units from the previous school year.

- (3) For the 2023-24 school year, the transition maximum rate is one hundred ten percent of the district's baseline funding per weighted student unit, as established in subsection 2, plus twenty percent of the difference between the rate under paragraph 1 of subdivision b of this subsection and one hundred ten percent of the district's baseline funding per weighted student unit. The transition maximum is determined by multiplying the transition maximum rate, which may not exceed the rate under paragraph 1 of subdivision b of this subsection, by the district's weighted student units from the previous school year.
  - (4) For the 2024-25 school year, the transition maximum rate is one hundred ten percent of the district's baseline funding per weighted student unit, as established in subsection 2, plus forty percent of the difference between the rate under paragraph 1 of subdivision b of this subsection and one hundred ten percent of the district's baseline funding per weighted student unit. The transition maximum is determined by multiplying the transition maximum rate, which may not exceed the rate under paragraph 1 of subdivision b of this subsection, by the district's weighted student units from the previous school year.
  - (5) For the 2025-26 school year, the transition maximum rate is one hundred ten percent of the district's baseline funding per weighted student unit, as established in subsection 2, plus sixty percent of the difference between the rate under paragraph 1 of subdivision b of this subsection and one hundred ten percent of the district's baseline funding per weighted student unit. The transition maximum is determined by multiplying the transition maximum rate, which may not exceed the rate under paragraph 1 of subdivision b of this subsection, by the district's weighted student units from the previous school year.
  - (6) For the 2026-27 school year, the transition maximum rate is one hundred ten percent of the district's baseline funding per weighted student unit, as established in subsection 2, plus eighty percent of the difference between the rate under paragraph 1 of subdivision b of this subsection and one hundred ten percent of the district's baseline funding per weighted student unit. The transition maximum is determined by multiplying the transition maximum rate, which may not exceed the rate under paragraph 1 of subdivision b of this subsection, by the district's weighted student units from the previous school year.
4. After determining the product in accordance with subsection 3, the superintendent of public instruction shall:
- a. Subtract an amount equal to sixty mills multiplied by the taxable valuation of the school district, except the amount in dollars subtracted for purposes of this subdivision may not exceed the previous year's amount in dollars subtracted for purposes of this subdivision by more than twelve percent, adjusted pursuant to section 15.1-27-04.3; and
  - b. Subtract an amount equal to seventy-five percent of all revenue types listed in subdivisions c and d of subsection 1. Before determining the deduction for seventy-five percent of all revenue types, the superintendent of public instruction shall adjust revenues as follows:
    - (1) Tuition revenue shall be adjusted as follows:
      - (a) In addition to deducting tuition revenue received specifically for the operation of an educational program provided at a residential treatment facility and tuition revenue received for the provision of an adult farm management program as directed in paragraph 3 of subdivision c of subsection 1, the

superintendent of public instruction also shall reduce the total tuition reported by the school district by the amount of tuition revenue received for the education of students not residing in the state and for which the state has not entered a cross-border education contract; and

- (b) The superintendent of public instruction also shall reduce the total tuition reported by admitting school districts meeting the requirements of subdivision e of subsection 2 of section 15.1-29-12 by the amount of tuition revenue received for the education of students residing in an adjacent school district.
- (2) After adjusting tuition revenue as provided in paragraph 1, the superintendent shall reduce all remaining revenues from all revenue types by the percentage of mills levied in ~~2018~~2020 by the school district for sinking and interest relative to the total mills levied in ~~2018~~2020 by the school district for all purposes.
5. The amount remaining after the computation required under subsection 4 is the amount of state aid to which a school district is entitled, subject to any other statutory requirements or limitations.
6. On or before June thirtieth of each year, the school board shall certify to the superintendent of public instruction the final average daily membership for the current school year.
7. For purposes of the calculation in subsection 4, each county auditor, in collaboration with the school districts, shall report the following to the superintendent of public instruction on an annual basis:
  - a. The amount of revenue received by each school district in the county during the previous school year for each type of revenue identified in subdivisions c and d of subsection 1;
  - b. The total number of mills levied in the previous calendar year by each school district for all purposes; and
  - c. The number of mills levied in the previous calendar year by each school district for sinking and interest fund purposes.

**Baseline funding - Establishment - Determination of state aid. (Effective after June 30, 2025)**

1. To determine the amount of state aid payable to each district, the superintendent of public instruction shall establish each district's baseline funding. A district's baseline funding consists of:
  - a. All state aid received by the district in accordance with chapter 15.1-27 during the 2018-19 school year;
  - b. An amount equal to the property tax deducted by the superintendent of public instruction to determine the 2018-19 state aid payment;
  - c. An amount equal to seventy-five percent of the revenue received by the school district during the 2017-18 school year for the following revenue types:
    - (1) Revenue reported under code 2000 of the North Dakota school district financial accounting and reporting manual, as developed by the superintendent of public instruction in accordance with section 15.1-02-08;
    - (2) Mineral revenue received by the school district through direct allocation from the state treasurer and not reported under code 2000 of the North Dakota school district financial accounting and reporting manual, as developed by the superintendent of public instruction in accordance with section 15.1-02-08;

- (3) Tuition reported under code 1300 of the North Dakota school district financial accounting and reporting manual, as developed by the superintendent of public instruction in accordance with section 15.1-02-08, with the exception of revenue received specifically for the operation of an educational program provided at a residential treatment facility and tuition received for the provision of an adult farm management program;
  - (4) Revenue from payments in lieu of taxes on the distribution and transmission of electric power;
  - (5) Revenue from payments in lieu of taxes on electricity generated from sources other than coal;
  - (6) Revenue from the leasing of land acquired by the United States for which compensation is allocated to the state under 33 U.S.C. 701(c)(3); and
- d. An amount equal to the total revenue received by the school district during the 2017-18 school year for the following revenue types:
- (1) Mobile home tax revenue;
  - (2) Telecommunications tax revenue; and
  - (3) Revenue from payments in lieu of taxes and state reimbursement of the homestead credit and disabled veterans credit.
- e. Beginning with the 2020-21 school year, the superintendent shall reduce the baseline funding for any school district that becomes an elementary district pursuant to section 15.1-07-27 after the 2012-13 school year. The reduction must be proportional to the number of weighted student units in the grades that are offered through another school district relative to the total number of weighted student units the school district offered in the year before the school district became an elementary district. The reduced baseline funding applies to the calculation of state aid for the first school year in which the school district becomes an elementary district and for each year thereafter. For districts that become an elementary district prior to the 2020-21 school year, the superintendent shall use the reduced baseline funding to calculate state aid for the 2020-21 school year and for each year thereafter.
2. a. The superintendent shall divide the district's baseline funding determined in subsection 1 by the district's 2017-18 weighted student units to determine the district's baseline funding per weighted student unit.
- b. For any school district that becomes an elementary district pursuant to section 15.1-07-27 after the 2017-18 school year, the superintendent shall adjust the district's baseline funding per weighted student unit used to calculate state aid. The superintendent shall divide the district's baseline funding determined in subsection 1 by the district's weighted student units after the school district becomes an elementary district to determine the district's adjusted baseline funding per weighted student unit. The superintendent shall use the district's adjusted baseline funding per weighted student unit in the calculation of state aid for the first school year in which the school district becomes an elementary district and for each year thereafter.
- c. Beginning with the 2021-22 school year and for each school year thereafter, the superintendent shall reduce the district's baseline funding per weighted student unit. Each year the superintendent shall calculate the amount by which the district's baseline funding per weighted student unit exceeds the payment per weighted student unit provided in subsection 3. The superintendent shall reduce the district's baseline funding per weighted student unit by fifteen percent of the amount by which the district's baseline

funding per weighted student unit exceeds the payment per weighted student unit for the 2021-22 school year. For each year thereafter, the reduction percentage is increased by an additional fifteen percent. However, the district's baseline funding per weighted student unit, after the reduction, may not be less than the payment per weighted student unit provided in subsection 3.

3. a. For the ~~2019-20~~2021-22 school year, the superintendent shall calculate state aid as the greater of:
  - (1) The district's weighted student units multiplied by ~~nine thousand eight hundred thirty-nine~~ten thousand one hundred thirty-six dollars;
  - (2) One hundred ~~one~~two percent of the district's baseline funding per weighted student unit, as established in subsection 2, multiplied by the district's weighted student units, not to exceed the district's 2017-18 baseline weighted student units, plus any weighted student units in excess of the 2017-18 baseline weighted student units multiplied by ~~nine thousand eight hundred thirty-nine~~ten thousand one hundred thirty-six dollars; or
  - (3) The district's baseline funding as established in subsection 1 less the amount in paragraph 1, with the difference reduced by fifteen percent and then the difference added to the amount determined in paragraph 1.
  
- b. For the ~~2020-21~~2022-23 school year and each school year thereafter, the superintendent shall calculate state aid as the greater of:
  - (1) The district's weighted student units multiplied by ten thousand ~~thirty-six~~two hundred thirty-seven dollars;
  - (2) One hundred two percent of the district's baseline funding per weighted student unit, as established in subsection 2, multiplied by the district's weighted student units, not to exceed the district's 2017-18 baseline weighted student units, plus any weighted student units in excess of the 2017-18 baseline weighted student units multiplied by ten thousand ~~thirty-six~~two hundred thirty-seven dollars; or
  - (3) The district's baseline funding as established in subsection 1 less the amount in paragraph 1, with the difference reduced by ~~fifteen~~thirty percent for the ~~2021-22~~2022-23 school year and the reduction percentage increasing by fifteen percent each school year thereafter until the difference is reduced to zero, and then the difference added to the amount determined in paragraph 1.
  
- c. The superintendent also shall adjust state aid determined in this subsection to ensure the amount does not exceed the transition maximum as follows:
  - (1) For the ~~2019-20~~2021-22 school year, ~~to ensure the amount does not exceed~~the transition maximum rate is one hundred ~~five~~ten percent of the district's baseline funding per weighted student unit, as established in subsection 2, multiplied by the district's weighted student units from the previous school year.
  - (2) For the ~~2020-21~~2022-23 school year and each school year thereafter, ~~to ensure the amount does not exceed~~the transition maximum rate is one hundred ten percent of the district's baseline funding per weighted student unit, as established in subsection 2, multiplied by the district's weighted student units from the previous school year.
  - (3) For the 2023-24 school year, the transition maximum rate is one hundred ten percent of the district's baseline funding per weighted student unit, as established in subsection 2, plus twenty percent of the difference between the rate under

paragraph 1 of subdivision b of this subsection and one hundred ten percent of the district's baseline funding per weighted student unit. The transition maximum is determined by multiplying the transition maximum rate, which may not exceed the rate under paragraph 1 of subdivision b of this subsection, by the district's weighted student units from the previous school year.

- (4) For the 2024-25 school year, the transition maximum rate is one hundred ten percent of the district's baseline funding per weighted student unit, as established in subsection 2, plus forty percent of the difference between the rate under paragraph 1 of subdivision b of this subsection and one hundred ten percent of the district's baseline funding per weighted student unit. The transition maximum is determined by multiplying the transition maximum rate, which may not exceed the rate under paragraph 1 of subdivision b of this subsection, by the district's weighted student units from the previous school year.
  - (5) For the 2025-26 school year, the transition maximum rate is one hundred ten percent of the district's baseline funding per weighted student unit, as established in subsection 2, plus sixty percent of the difference between the rate under paragraph 1 of subdivision b of this subsection and one hundred ten percent of the district's baseline funding per weighted student unit. The transition maximum is determined by multiplying the transition maximum rate, which may not exceed the rate under paragraph 1 of subdivision b of this subsection, by the district's weighted student units from the previous school year.
  - (6) For the 2026-27 school year, the transition maximum rate is one hundred ten percent of the district's baseline funding per weighted student unit, as established in subsection 2, plus eighty percent of the difference between the rate under paragraph 1 of subdivision b of this subsection and one hundred ten percent of the district's baseline funding per weighted student unit. The transition maximum is determined by multiplying the transition maximum rate, which may not exceed the rate under paragraph 1 of subdivision b of this subsection, by the district's weighted student units from the previous school year.
4. After determining the product in accordance with subsection 3, the superintendent of public instruction shall:
- a. Subtract an amount equal to sixty mills multiplied by the taxable valuation of the school district; and
  - b. Subtract an amount equal to seventy-five percent of all revenue types listed in subdivisions c and d of subsection 1. Before determining the deduction for seventy-five percent of all revenue types, the superintendent of public instruction shall adjust revenues as follows:
    - (1) Tuition revenue shall be adjusted as follows:
      - (a) In addition to deducting tuition revenue received specifically for the operation of an educational program provided at a residential treatment facility and tuition revenue received for the provision of an adult farm management program as directed in paragraph 3 of subdivision c of subsection 1, the superintendent of public instruction also shall reduce the total tuition reported by the school district by the amount of tuition revenue received for the education of students not residing in the state and for which the state has not entered a cross-border education contract; and
      - (b) The superintendent of public instruction also shall reduce the total tuition reported by admitting school districts meeting the requirements of subdivision e of subsection 2 of section 15.1-29-12 by the amount of tuition

revenue received for the education of students residing in an adjacent school district.

- (2) After adjusting tuition revenue as provided in paragraph 1, the superintendent shall reduce all remaining revenues from all revenue types by the percentage of mills levied in ~~2018~~2020 by the school district for sinking and interest relative to the total mills levied in ~~2018~~2020 by the school district for all purposes.
5. The amount remaining after the computation required under subsection 4 is the amount of state aid to which a school district is entitled, subject to any other statutory requirements or limitations.
6. On or before June thirtieth of each year, the school board shall certify to the superintendent of public instruction the final average daily membership for the current school year.
7. For purposes of the calculation in subsection 4, each county auditor, in collaboration with the school districts, shall report the following to the superintendent of public instruction on an annual basis:
  - a. The amount of revenue received by each school district in the county during the previous school year for each type of revenue identified in subdivisions c and d of subsection 1;
  - b. The total number of mills levied in the previous calendar year by each school district for all purposes; and
  - c. The number of mills levied in the previous calendar year by each school district for sinking and interest fund purposes.

**SECTION 12. AMENDMENT.** Section 15.1-27-35 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-27-35. Average daily membership - Calculation.**

1. Average daily membership is calculated at the conclusion of the school year by adding the total number of hours that each student in a given grade, school, or school district is in attendance at the school's physical plant during a school calendar and the total number of hours that each student in a given grade, school, or school district is absent during a school calendar, and then dividing the sum by:
  - a. Nine hundred sixty-two and one-half hours for elementary school students; or
  - b. One thousand fifty hours for middle and high school students.
2. For purposes of calculating average daily membership:
  - a. A student enrolled full time in any grade from one through twelve may not exceed an average daily membership of 1.00. The membership may be prorated for a student who is enrolled less than full time.
  - b. A student enrolled full time in an approved regular education kindergarten program may not exceed an average daily membership of 1.00. The membership may be prorated for a student who is enrolled less than full time.
  - c. A student enrolled full time, as defined by the superintendent of public instruction, in an approved early childhood special education program may not exceed an average daily membership of 1.00. The membership may be prorated for a student who is enrolled less than full time.

- d. A student enrolled full time in virtual instruction is calculated at an average daily membership of 1.00. The membership may be prorated for a student who is enrolled less than full time.

**SECTION 13. AMENDMENT.** Section 15.1-31-07 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-31-07. Students not subject to this chapter.**

1. If a student, as a result of a school district dissolution or reorganization, resides in a district other than the one the student chooses to attend at the time of the dissolution or reorganization, the student is not subject to this chapter and may attend school in the chosen school district.
2. If a student resides in a district other than the one the student is enrolled in for purposes of receiving virtual instruction, the student is not subject to this chapter unless a cost-sharing agreement is established between the school district of residence and the receiving district.

**SECTION 14. LEGISLATIVE MANAGEMENT STUDY - TRANSITION MINIMUM REDUCTION.**

1. During the 2021-22 interim, the legislative management shall consider studying kindergarten through grade twelve school funding, including transition minimum reduction impacts to reorganized and consolidated school districts. The study must include:
  - a. A review of school districts that have multiple buildings in the district and districts that have built a new building without using traditional bonding methods as a result of a multidistrict reorganization;
  - b. An analysis of high-cost students, including students who are high cost due to special education needs, medical reasons, agency placements, or any other reasons that increase the cost to educate the students beyond the state threshold;
  - c. An ongoing review of the impacts of school districts that are off of the funding formula as they transition onto the formula;
  - d. An analysis of human resource allocation and the duties and needs in elementary and secondary school buildings with a targeted focus on student academic health, behavioral health, and social and emotional health; and
  - e. A review of student performance data relevant to students participating in virtual learning.
2. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations to the sixty-eighth legislative assembly.

**SECTION 15. KINDERGARTEN THROUGH GRADE TWELVE EDUCATION COORDINATION COUNCIL STUDY - COMPOSITION - DUTIES - TERM LIMITS - REPORT TO LEGISLATIVE MANAGEMENT.** During the 2021-22 interim, the kindergarten through grade twelve education coordination council shall study the membership, duties, and term limits of the council. Before June 1, 2022, the kindergarten through grade twelve education coordination council shall report the findings and recommendations of the study, including any proposed legislation necessary to implement the recommendations, to the legislative management.

**SECTION 16. EFFECTIVE DATE.** Section 7 of this Act becomes effective on July 1, 2022.

**SECTION 17. EMERGENCY.** Section 12 of this Act is declared to be an emergency measure.



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

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

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

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

This certifies that the within bill originated in the House of Representatives of the Sixty-seventh Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1388 and that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote:        Yeas 71                      Nays 17                      Absent 6

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

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

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

Vote:        Yeas 44                      Nays 3                      Absent 0

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

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

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2021.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2021.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2021,  
at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

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