

**2023 JOINT POLICY**

**SB 2398**

# 2023 JOINT STANDING COMMITTEE MINUTES

## Policy Committee Roughrider Room, State Capitol

SB 2398  
10/23/2023

A bill relating to baseline funding and the determination of state school aid, loans from the coal development trust fund, and evidences of indebtedness; to provide an appropriation; to provide for retroactive application; and to provide an effective date.

**10:12AM Co-Chairman Klein** opened the hearing.

**Members Present:** Co-Chairman Klein, Senator Clemens, Senator Conley, Senator Elkin, Senator Hogan, Senator Kannianen, Senator Kessel, Senator Larson, Senator Lee, Senator Luick, Senator Patten, Senator Piepkorn, Senator Roers, Senator Wobbema Co-Chairman Thomas, Representative Anderson, Representative Dobervich, Representative Headland, Representative Heinert, Representative Kasper, Representative Klemin, Representative Koppelman, Representative Longmuir, Representative Louser, Representative Ruby, Representative Schauer, Representative Schneider, Representative Weisz.

### Discussion Topics:

- Baseline funding
- State school aid
- Coal development trust fund loans
- Retroactive aspect

**10:12 AM Liz Fordahl, Legislative Council** explained the bill. #28055

**10:19 AM Representative Headland** moved a Do Pass.

**10:19 AM Representative Louser** seconded the motion.

### Roll call vote:

Senators	Vote	Representatives	Vote
Senator Jerry Klein	Y	Representative Paul Thomas	Y
Senator David Clemens	Y	Representative Dick Anderson	Y
Senator Cole Conley	Y	Representative Gretchen Dobervich	Y
Senator Jay Elkin	Y	Representative Craig Headland	Y
Senator Kathy Hogan	Y	Representative Pat Heinert	Y
Senator Jordan Kannianen	Y	Representative Jim Kasper	Y
Senator Greg Kessel	Y	Representative Lawrence Klemin	Y
Senator Diane Larson	Y	Representative Ben Koppelman	Y
Senator Judy Lee	Y	Representative Donald Longmuir	Y
Senator Larry Luick	Y	Representative Scott Louser	Y
Senator Dale Patten	Y	Representative Dan Ruby	Y
Senator Merrill Piepkorn	Y	Representative Austen Schauer	Y
Senator Kristin Roers	Y	Representative Mary Schneider	Y
Senator Michael Wobbema	Y	Representative Robin Weisz	Y

**Motion carried 28-0-0. (House 14-0-0 Senate 14-0-0)**

**Senator Elkin and Representative Heinert** will carry the bill.

**10:21 Co-Chairman Klein** closed the hearing.

*Carie Winings, Committee Clerk*

**REPORT OF STANDING COMMITTEE**

**SB 2398: Joint Policy Committee (Sen. Klein, Co-Chairman)** recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2398 was placed on the Eleventh order on the calendar. This bill does not affect workforce development.

**REPORT OF STANDING COMMITTEE**

**SB 2398: Joint Policy Committee (Rep. Thomas, Co-Chairman)** recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2398 was placed on the Fourteenth order on the calendar.

**TESTIMONY**

**SB 2398**



# North Dakota Legislative Council

Prepared for the Legislative Management  
LC# 25.9137.01000  
October 2023

## SUMMARY OF REENACTMENT OF PROVISIONS RELATING TO K-12 EDUCATION FUNDING - LC# 23.1141.01000

This memorandum describes the bill draft [23.1141.01000] which reenacts the following sections of Senate Bill No. 2015 (2023):

- Part of Section 6, an appropriation provided to the Department of Public Instruction for integrated formula payments;
- Section 25, relating to the funding formula for K-12 schools;
- Section 26, relating to loans from the coal development trust fund, to become effective immediately;
- Section 27, relating to loans from the coal development trust fund, to become effective July 1, 2025;
- Section 28, relating to evidences of indebtedness; and
- Part of Section 67, relating to the delayed effective date for Section 27. ([appendix](#))

### SECTION 1

Section 1 reenacts Section 25 of Senate Bill No. 2015, which further amended Section 10 of Senate Bill No. 2284 (2023), to amend the phase-out of transition minimum adjustments in the funding formula for K-12 schools.

Transition minimum adjustments apply to those districts that were above the per-student payment rate when the formula was implemented during the 2013-15 biennium. Two hold harmless minimum calculations--baseline funding per weighted student unit and total baseline funding dollars<sup>1</sup>--guarantee school districts will not receive less funding per weighted student unit or in total than the funding received during the baseline funding year.<sup>2</sup> The transition minimum adjustments provide these school districts additional funding to prevent the school districts from being harmed by the funding formula. The funding formula includes a phase-out of the transition minimum adjustments over time.

In 2019, the Legislative Assembly amended the funding formula to phase out baseline funding per weighted student unit beginning with the 2021-22 school year by providing a 15 percent reduction of the amount by which the district's baseline funding per weighted student unit exceeds the payment provided per weighted student unit, with the reduction percentage being increased by 15 percent until the payment is equal to the payment provided per weighted student unit. Thus, the reduction percentage increase would be 10 percent in the final year of the phase-out. In 2019, the Legislative Assembly also provided for the reduction of the dollar amount transition minimum adjustments to increase by 15 percent for each school year thereafter and 10 percent in the final year.

The amendment in Section 25 of Senate Bill No. 2015 modified the phase-out to provide the 10 percent reduction percentage increase, which was slated for the final year of the phase-out, in the 2023-24 school year, leaving the remaining 4 years of the phase-out with a 15 percent reduction percentage increase. The two hold harmless provisions of the funding formula in North Dakota Century Code Section 15.1-27-04.1(2) and (3) were amended. The effect of this amendment is the transition minimum school districts will receive more funding. The appropriation in Section 6 of Senate Bill No. 2015 provides that additional funding.

### SECTION 2

Section 2 reenacts Section 26 of Senate Bill No. 2015, which amended Section 15.1-36-02 relating to loans from the coal development trust fund. The amendment in Section 26 added "a legislatively defined condition" to the list

<sup>1</sup> North Dakota Century Code Section 15.1-27-04.1(2) and (3).

<sup>2</sup> The baseline funding year has been the 2018-2019 school year since 2019.

of demonstrable criteria for a school district to qualify for a loan from the coal development trust fund and increased the maximum loan amount from \$2 million to \$5 million.

The amendment in Section 26 also provided, for loans made during the 2023-25 biennium, a loan may be granted for additional expenses due to unanticipated construction inflation dating back to January 1, 2021. The unanticipated construction loan provision only is effective until June 30, 2024.

### **SECTION 3**

Section 3 reenacts Section 27 of Senate Bill No. 2015, which amended Section 15.1-36-02 relating to loans from the coal development trust fund. This section is identical to Section 2, except for the removal of the provisions allowing for a loan for additional expenses due to unanticipated construction inflation. This section becomes effective July 1, 2024.

### **SECTION 4**

Section 4 reenacts Section 28 of Senate Bill No. 2015, which amended Section 15.1-36-04 relating to evidences of indebtedness. The amendment permits a board of a school district to issue and sell evidences of indebtedness under Chapter 21-03, which relates to bonds, in addition to Chapter 21-02, which relates to certificates of indebtedness, to finance school construction. The amendment also provides evidences of indebtedness issued under Chapter 21-03, in addition to Chapter 15.1-36, constitute a general obligation of the school district.

### **SECTION 5**

Section 5 reenacts part of Section 6 of Senate Bill No. 2015, which provides a \$3 million appropriation to the Department of Public Instruction. The purpose of the appropriation is to provide additional funding for integrated formula payments due to amendments to the phase-out of the funding formula's transition minimum adjustments in Section 25 of Senate Bill No. 2015.

### **SECTION 6**

Section 6 provides Sections 1, 2, 4, and 5 of the Act apply retroactively to July 1, 2023.

### **SECTION 7**

Section 7 provides Section 3 of the Act becomes effective on July 1, 2024, and the remainder of the Act becomes effective immediately upon the filing of the Act with the Secretary of State.

ATTACH:1



**SECTION 6. APPROPRIATION - GENERAL FUND - LEGISLATIVE COUNCIL - DEPARTMENT OF ENVIRONMENTAL QUALITY - DEPARTMENT OF LABOR AND HUMAN RIGHTS - DEPARTMENT OF PUBLIC INSTRUCTION - DEPARTMENT OF COMMERCE - REPORT - ONE-TIME FUNDING.** For the biennium beginning July 1, 2023, and ending June 30, 2025, there is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the following amounts, or so much of the sum as may be necessary:

1. \$500,000 to the legislative council for the purpose of contracting for a performance audit of the state auditor and for other consulting services of interim committees. The chairman of the legislative management shall arrange for the audit and receive the audit report. The performance audit must address the efficiency and effectiveness of the state auditor's office relative to industry best practices. The performance audit must include a review of the appropriateness of the number of hours to complete audits; methods used to monitor staff time and allocate hours charged to audits; billing processes; quality assurance processes; the adequacy and timeliness of communications with audited entities, governing boards, and the public; and other areas as determined by the chairman of the legislative management. The funding provided in this subsection is considered a one-time funding item.
2. \$40,000 to the department of environmental quality for the purpose of providing meeting expense reimbursement to members of the onsite wastewater recycling technical committee. A member of the committee who is not a state employee is entitled to reimbursement for mileage and expenses as provided by law for state officers and employees, to be paid by the department of environmental quality. A state employee who is a member of the committee is entitled to receive that employee's regular salary and is entitled to reimbursement for mileage and expenses to be paid by the employing agency.
3. \$50,000 to the department of labor and human rights for the purpose of defraying expenses of analyzing the administration of occupational and professional boards pursuant to Senate Bill No. 2249, as approved by the sixty-eighth legislative assembly. The funding provided in this subsection is considered a one-time funding item.
4. \$3,000,000 to the department of public instruction for the purpose of providing integrated formula payments.
5. \$500,000 to the department of commerce for the purpose of providing workforce development grants to a tribally controlled community college in the Turtle Mountain area. To be eligible for a grant under this section, a tribally controlled community college shall partner with at least one high school in the state for programs under section 54-60.2-02. During the 2023-24 interim, a tribally controlled community college receiving funding under this program shall report to the department of commerce by August 1, 2024, regarding the use of grant funds and the department of commerce shall provide a report to the legislative management by October 1, 2024, regarding the use of grant funds. The funding provided in this subsection is considered a one-time funding item.
6. \$2,000,000 to the department of commerce for the purpose of defraying the expenses of the office of legal immigration. The funding provided in this subsection is considered a one-time funding item.

**SECTION 25. AMENDMENT.** Section 15.1-27-04.1 of the North Dakota Century Code as amended by section 10 of Senate Bill No. 2284, as approved by the sixty-eighth legislative assembly, 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, tuition received for the provision of an adult farm management program, and beginning in the 2021-22 school year, seventeen percent of tuition received under an agreement to educate students from a school district on an air force base with funding received through federal impact aid, and an additional seventeen percent of tuition received under an agreement to educate students from a school district on an air force base with funding received through federal impact aid each school year thereafter, until the 2024-25 school year when sixty-eight percent of tuition received under an agreement to educate students from a school district on an air force base with funding received through federal impact aid must be excluded from the tuition calculation under this paragraph;
    - (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; and
    - (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);
  - 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~~For the 2023-24 school year the superintendent shall reduce the district's baseline funding per weighted student unit by ~~fifteen~~forty 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~~2023-24 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 2023-24 school year, the superintendent shall calculate state aid as the greater of:
    - (1) The district's weighted student units multiplied by ten thousand six hundred forty-six 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 six hundred forty-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 ~~forty-five~~forty percent and then the difference added to the amount determined in paragraph 1.
  - b. For the 2024-25 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 eleven thousand seventy-two 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 eleven thousand seventy-two dollars; or
  - (3) The district's baseline funding as established in subsection 1 less the amount in paragraph 1, with the difference reduced by ~~sixty~~sixty-five percent for the 2024-25 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.
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, tuition revenue received for the provision of an adult farm management program, and tuition received under an agreement to educate students from a school district on an air force base with funding received through federal impact aid as directed each school year 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 2022 by the school district for sinking and interest relative to the total mills levied in 2022 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, tuition received for the provision of an adult farm management program, and beginning in the 2025-26 school year, eighty-five percent of tuition received under an agreement to educate students from a school district on an air force base with funding received through federal impact aid, until the 2026-27 school year, and each school year thereafter, when all tuition received under an agreement to educate students from a school district on an air force base with funding received through federal impact aid must be excluded from the tuition calculation under this paragraph;
    - (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; and

- (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~~For the 2023-24 school year the superintendent shall reduce the district's baseline funding per weighted student unit by ~~fifteen~~forty 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~~2023-24 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 2023-24 school year, the superintendent shall calculate state aid as the greater of:
  - (1) The district's weighted student units multiplied by ten thousand six hundred forty-six 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 six hundred forty-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 ~~forty-five~~forty percent and then the difference added to the amount determined in paragraph 1.
- b. For the 2024-25 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 eleven thousand seventy-two 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 eleven thousand seventy-two dollars; or
    - (3) The district's baseline funding as established in subsection 1 less the amount in paragraph 1, with the difference reduced by ~~sixty-five~~ fifty-five percent for the 2024-25 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.
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, tuition revenue received for the provision of an adult farm management program, and tuition received under an agreement to educate students from a school district on an air force base with funding received through federal impact aid as directed each school year 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 2022 by the school district for sinking and interest relative to the total mills levied in 2022 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 26. AMENDMENT.** Section 15.1-36-02 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-36-02. Coal development trust fund - Board of university and school lands - School construction projects - Unanticipated construction projects and emergency repairs - Loans.**

1. Up to sixty million dollars from the coal development trust fund is available to the board of university and school lands for loans under this section.
2. To be eligible for a loan under this section, the school district must demonstrate a need based on an unanticipated construction project, an unanticipated replacement project, or an emergency repair, or a legislatively defined condition, and the board of a school district shall:
  - a. Obtain the approval of the superintendent of public instruction for the construction project under section 15.1-36-01; and
  - b. Submit to the superintendent of public instruction an application containing all information deemed necessary by the superintendent, including potential alternative sources or methods of financing the construction project.
3. The superintendent of public instruction shall consider each loan application in the order ~~it~~the application received approval under section 15.1-36-01.
4. If the superintendent of public instruction approves the loan, the board of university and school lands shall issue a loan from the coal development trust fund.
  - a. For a loan made under this ~~section~~subsection:
    - ~~a.~~(1) The minimum loan amount is two hundred fifty thousand dollars and the maximum loan amount for which a school district may qualify is ~~two~~five million dollars;
    - ~~b.~~(2) The term of the loan is twenty years, unless the board of the school district requests a shorter term in the written loan application; and
    - ~~c.~~(3) The interest rate of the loan may not exceed two percent per year.



- b. During the 2023-25 biennium, a loan including additional expenses due to unanticipated construction inflation is an allowable condition under subsection 2. For a loan made under this subsection which includes additional expenses due to unanticipated construction inflation:
    - (1) The unanticipated construction inflation must have occurred for a construction project bid after January 1, 2021, and before June 30, 2024;
    - (2) The maximum loan amount for which a school district may qualify is five million dollars;
    - (3) The interest rate on the loan may not exceed two percent per year;
    - (4) The term of the loan is twenty years, unless the board of the school district requests a shorter term in the written loan application; and
    - (5) The school district may pledge revenues derived from its general fund levy authority or other sources of revenue authorized by law.
5. a. If a school district seeking a loan under this section received an allocation of the oil and gas gross production tax during the previous fiscal year in accordance with chapter 57-51, the board of the district shall provide to the board of university and school lands, and to the state treasurer, its evidence of indebtedness indicating that the loan originated under this section.
  - b. If the evidence of indebtedness is payable solely from the school district's allocation of the oil and gas gross production tax in accordance with section 57-51-15, the loan does not constitute a general obligation of the school district and may not be considered a debt of the district.
  - c. If a loan made to a school district is payable solely from the district's allocation of the oil and gas gross production tax in accordance with section 57-51-15, the terms of the loan must require that the state treasurer withhold the dollar amount or percentage specified in the loan agreement, from each of the district's oil and gas gross production tax allocations, in order to repay the principal and interest of the evidence of indebtedness. The state treasurer shall deposit the amount withheld into the fund from which the loan originated.
  - d. Any evidence of indebtedness executed by the board of a school district under this subsection is a negotiable instrument and not subject to taxation by the state or any political subdivision of the state.
6. For purposes of this section, a "construction project" means the purchase, lease, erection, or improvement of any structure or facility by a school board, provided the acquisition or activity is within a school board's authority.

**SECTION 27. AMENDMENT.** Section 15.1-36-02 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-36-02. Coal development trust fund - Board of university and school lands - School construction projects - Unanticipated construction projects and emergency repairs - Loans.**

1. Up to sixty million dollars from the coal development trust fund is available to the board of university and school lands for loans under this section.
2. To be eligible for a loan under this section, the school district must demonstrate a need based on an unanticipated construction project, an unanticipated replacement project, an emergency repair, or a legislatively defined condition, and the board of a school district shall:

- a. Obtain the approval of the superintendent of public instruction for the construction project under section 15.1-36-01; and
  - b. Submit to the superintendent of public instruction an application containing all information deemed necessary by the superintendent, including potential alternative sources or methods of financing the construction project.
3. The superintendent of public instruction shall consider each loan application in the order the application received approval under section 15.1-36-01.
  4. If the superintendent of public instruction approves the loan, the board of university and school lands shall issue a loan from the coal development trust fund.
    - a. For a loan made under this ~~subsection~~section:
      - (1)~~a.~~ The minimum loan amount is two hundred fifty thousand dollars and the maximum loan amount for which a school district may qualify is five million dollars;
      - (2)~~b.~~ The term of the loan is twenty years, unless the board of the school district requests a shorter term in the written loan application; and
      - (3)~~c.~~ The interest rate of the loan may not exceed two percent per year.
      - b. ~~During the 2023-25 biennium, a loan including additional expenses due to unanticipated construction inflation is an allowable condition under subsection 2 of this section. For a loan made under this subsection which includes additional expenses due to unanticipated construction inflation:~~
        - (1) ~~The unanticipated construction inflation must have occurred for a construction project bid after January 1, 2021, and before June 30, 2024;~~
        - (2) ~~The maximum loan amount for which a school district may qualify is five million dollars;~~
        - (3) ~~The interest rate on the loan may not exceed two percent per year;~~
        - (4) ~~The term of the loan is twenty years, unless the board of the school district requests a shorter term in the written loan application; and~~
        - (5) ~~The school district may pledge revenues derived from its general fund levy authority or other sources of revenue authorized by law.~~
5. a. If a school district seeking a loan under this section received an allocation of the oil and gas gross production tax during the previous fiscal year in accordance with chapter 57-51, the board of the district shall provide to the board of university and school lands, and to the state treasurer, its evidence of indebtedness indicating the loan originated under this section.
  - b. If the evidence of indebtedness is payable solely from the school district's allocation of the oil and gas gross production tax in accordance with section 57-51-15, the loan does not constitute a general obligation of the school district and may not be considered a debt of the district.
  - c. If a loan made to a school district is payable solely from the district's allocation of the oil and gas gross production tax in accordance with section 57-51-15, the terms of the loan must require the state treasurer withhold the dollar amount or percentage specified in the loan agreement, from each of the district's oil and gas gross production tax allocations, in order to repay the principal and interest of the evidence of indebtedness. The state treasurer shall deposit the amount withheld into the fund from which the loan originated.

- d. Any evidence of indebtedness executed by the board of a school district under this subsection is a negotiable instrument and not subject to taxation by the state or any political subdivision of the state.
- 6. For purposes of this section, a "construction project" means the purchase, lease, erection, or improvement of any structure or facility by a school board, provided the acquisition or activity is within a school board's authority.

**SECTION 28. AMENDMENT.** Section 15.1-36-04 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-36-04. Evidences of indebtedness.**

~~The~~Except as otherwise provided in this chapter, the board of a school district may issue and sell evidences of indebtedness under chapter 21-02 or 21-03 to finance the construction or improvement of a project approved under this chapter. The principal amount of the loan and the evidences of indebtedness to repay the loan may not exceed the loan amount for which the district is eligible under this chapter. Evidences of indebtedness issued under this chapter or chapter 21-03 constitute a general obligation of the school district.

**SECTION 67. EFFECTIVE DATE.** Section 41 of this Act becomes effective on June 1, 2023. Section 27 of this Act becomes effective on July 1, 2024.