

# **NORTH DAKOTA**

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## **I. GENERAL BACKGROUND**

### **State**

The North Dakota Constitution (Art. VIII, §2) mandates that “The legislative assembly shall provide for a uniform system of free public schools throughout the state.” In response, the Legislative Assembly has adopted a system of formula and categorical funding for schools guided by the following statement. “It is the intent of the legislative assembly, not considering any separate and supplemental payments as may be provided by law, to support elementary and secondary education in this state from state funds based on the educational cost per student” (N.D. CENT. CODE § 15-40.1-06).

The primary education funding program for North Dakota schools combines foundation aid, transportation aid, tuition apportionment, and special education ADM allocations with a 32-mill property tax deduct and an additional deduction, where necessary, for excess fund balance. The original foundation aid formula was adopted in 1959 with a major revision in 1973. All current elements in the formula were brought together through legislation adopted in 1997.

The state share of school district revenues peaked at 64% in the 1981–82 fiscal year. For 1998–99, the state share was 44%.

### **Local**

During the 1998–99 school year, North Dakota had a total of 231 school districts. Of those, 180 were high school districts, which provided K–12 educational programs; 39 were elementary districts with grades K–6 or K–8; 10 were rural districts, providing education essentially in one-room schools for 16 or fewer students each; and 2 were non-operating, military installation school districts

coterminous with the boundaries of the Grand Forks and Minot Air Force Bases (N.D. CENT. CODE § 15-27.5).

Local tax revenue for school districts is raised primarily through the property tax. Other local revenues include interest on investments, proceeds from sale of supplies and other materials, and, in some districts, student participation fees for extracurricular activities and/or contributions from local educational foundations. An additional local source of funding, categorized in North Dakota as a county source, is revenue from mineral taxes.

### Funding Summary 1998-99

Total State School Aid (All Programs)		\$	273 million
Grants in Aid	1		273 million
Teacher Retirement Contributions			0 million
FICA			0 million
 Total Local School Revenue		 \$	 306 million
Property Tax			257 million
Other local source tax revenue			7 million
Local source non-tax revenue			42 million
 Total Combined State and Local School Revenue		 \$	 579 million
 State Financed Property Tax Credits Attributable to School Taxes			 0

## II. LOCAL SCHOOL REVENUE

### Property Tax

The property tax in North Dakota is applied only to real property, with a number of exemptions. Notable exemptions include most real estate owned by government units; property of religious, charitable, and other non-profit organizations; and farm buildings, including residences. There are numerous and detailed rules applied to these and other less notable exemptions (N.D. CENT. CODE § 57-02-08).

Taxable property is assessed locally at its true and full value, except for certain utility and transportation property that is assessed at the state level. The assessed value is then computed at 50% of the true and full value. Assessment ratios are then applied to the assessed value to determine taxable value. The current assessment ratios are 9% for non-farm residential property and 10% for all other classes of property. Therefore, the taxable value of a tract of residential property would be 4.5% of its true and full value. An example would be a home with a true and full value of \$100,000; assessed value of \$50,000 (50%); and taxable value of \$4,500 (9%). While the true and full value is related to market value for most property, a notable exception is agricultural land for which the true and full value is related to its “capitalized annual gross return” (N.D. CENT. CODE § 57-02–27.2).

The total taxable value of property in North Dakota in 1998 was \$1.19 billion. Total school district property taxes payable in 1999 were \$257 million. The range of general fund levies in 1998–99 was from 0 mills to 322 mills. General fund levies of 185 mills or more were approved in 48 (21%) of the state’s school districts. In contrast, six districts had no levy in 1998–99 and five other districts levied less than 70 mills for the general fund. Per-pupil taxable value ranged from \$133 to \$74,371 with a state average of \$9,7761.

### **Income Tax**

Neither school districts nor other units of local government in North Dakota have access to a local income tax.

### **Sales Tax**

Unlike other units of local government, school districts in North Dakota do not have access to a local sales tax.

### **Mineral Taxes**

School districts which are located in or, in some cases, near counties in which gas, oil, and/or coal is produced share in the distribution of taxes on that production. The percentage of value computed for taxation, the methods of calculation and collection, and the means of distribution of revenue are specified by a complex set of statutory and regulatory provisions. The following is a simplified, general explanation of the impact of the mineral taxes on school districts in North Dakota.

The proportion of taxes paid on gross production of oil or gas that is returned to the producing counties varies according to the population of the county and the

amount of tax revenue attributable to each county. Regardless of the amount, however, 35% of all gross production tax revenue received by the county is distributed to school districts in that county on the basis of average daily attendance (ADA) for the previous year (N.D. CENT. CODE § 57-51).

Revenue from a coal severance tax similarly is administered under a set of statutory and regulatory provisions. School districts in producing counties and other school districts with land within 15 miles of the point of production receive 30% of the tax revenue returned to the counties. The revenue is allocated on the basis of the number of school-age children residing in the districts in the producing counties and the number of children in other districts who reside within 15 miles of the point of production (N.D. CENT. CODE § 57-61).

### **Tax Credits and Exemptions**

Tax laws in North Dakota do not provide for any broadly applied tax credits. Various classes of property, however, are exempted from the property tax, as noted earlier.

A homestead credit, actually a reduction in taxable value rather than a credit, is provided only for persons age 65 or older or those who are permanently and totally disabled and who meet requirements for limited income. For taxes payable in 1999, the reduction in taxable value ranged from 20% for those with income from all sources in excess of \$12,000 but less than \$13,500 to 100% for those with incomes not in excess of \$7,500. The maximum allowable reduction in taxable value ranged from \$400 for the upper income range to \$2,000 for the lower (N.D. CENT. CODE § 57-02-08).

### **III. TAX AND SPENDING LIMITS**

In North Dakota, school districts have limits imposed on individual levies, on general fund levies, on total indebtedness, and on allowable general fund balance. Limits on non-general fund levies and on indebtedness are detailed in a later section.

There is a general cap of 185 mills on property tax levies for the general fund (N.D. CENT. CODE § 57-15-14). However, there are several means by which a school district's total general fund levies could exceed that limit. The Fargo school district, the state's largest, is specifically exempt. For 1998-99, Fargo had the highest general fund levy, 290 mills. Any other school district may have a similar unlimited levy authority, if so granted by a majority vote (55% in smaller districts) of the qualified electors (N.D. CENT. CODE § 57-16). In 1998-99, three

other school districts had such authority. In addition, three additional districts had approval for excess levies, each with a specified maximum. If a school district had a total of general fund levies in excess of the 185-mill cap at the time the cap was imposed in 1997, the district was limited to the greater of the revenue generated by its levy at that time or the revenue generated by a 185-mill levy applied to its current taxable valuation. The levy limit may also be exceeded if the voters approve a technology levy or if the district is subject to a final judgment issued by a state court and the board votes to pay that judgment through an increased property tax levy after the district has reached the 185-mill cap. Districts with levies below the 185-mill cap were allowed to increase their levy by as much as 18%, if the new total did not exceed the cap.

There is no maximum allowable fund balance for the general fund. However, there is a provision in the school funding formula, as described in a later section, that could result in a reduction of state aid if a school district's general fund balance exceeds an amount equal to 75% of its general fund expenditure budget plus \$20,000.

#### **IV. STATE\PROVINCIAL EARMARKED TAX REVENUE**

There are no state taxes earmarked for public school districts in North Dakota. While in some states gross production or severance taxes are categorized as state taxes, those are considered to be local (county) revenue in relation to school districts in North Dakota. However, there are two other state revenues dedicated to the support of public schools, both associated with the state tuition fund.

The primary source of revenue for the state tuition fund is income from leasing of school lands and investment income from the state permanent school fund. The second source of income is the net proceeds from all fines assessed for violation of state laws (N.D. CENT. CODE § 15-44-01). The annual income from the state tuition fund is apportioned to all school districts based on their respective shares of school-age children (ages 6–17) in the state. The number of school-age children is determined by the mandatory annual census of such individuals conducted in each district. For 1998–99, the state tuition apportionment was \$223 per child. This amount is subject to the equalization deduct, as explained below.

#### **V. BASIC SUPPORT PROGRAM**

**Funding in 1998–99:** \$232.0 million.

**Percentage of Total State Aid:** 85.0%.

**Nature of the program:** Equalized foundation formula (N.D. CENT. CODE § 15-40.1).

**Allocation Units:** Weighted pupil units (WPU) are calculated from the greater of the average daily membership (ADM) in the preceding year or the current year enrollment as reported in the September 10 fall enrollment report.

If a school is found to be small but necessary (N.D. CENT. CODE § 15-40.1-08.1), the weighting factors are adjusted for at least some students. For elementary schools that serve less than 50 students, at least 15% of whom would need to travel beyond a 15-mile radius from their residences to another school, the weighting factor is increased by 20% for the first 15 students. For high schools that serve less than 35 students, at least 15% of whom would need to travel beyond a 20-mile radius from their residences to another school, the weighting factor is increased by 20% for the first 20 students.

**Local fiscal capacity:** The basic support program in North Dakota includes a “deduct” of the revenue generated by a 32-mill levy in each school district. An additional deduction is applied if a district’s general fund balance exceeds the allowable limit.

**How Formula Works:** The funding formula begins with the calculation of total weighted pupil units, as described above. That total is then multiplied by the per-pupil payment determined by the Legislative Assembly. For 1998–99, the per-pupil payment was \$2,032.

To the amount computed with weighted pupil units and the per-pupil payment is then added the total transportation payment (described below), tuition apportionment (described above), and special education ADM payments (described later). From that sum is subtracted the deduct, the revenue that would be generated by a 32-mill property tax levy. There is no recapture provision in North Dakota, so any negative figure is replaced by zero. A district in which the general fund balance exceeds 75% of general fund expenditures plus \$20,000 is subject to a deduction equal to the excess fund balance. Again, there is no provision for recapture should the deduct and fund balance deduction exceed the sum of per-pupil, transportation, tuition apportionment, and special education ADM. In 1998–99, general aid was \$205 million and tuition apportionment was \$27 million.

**Local Share:** Local share is the revenue generated by a 32 mill tax levy.

**State Share:** Not reported.

**Weighting Procedures:** Weighting factors account only for district size (in ADM) and grade level of students. The weighting factors have been subject to annual revision based upon comparison with standard, statutory weights and five-year average costs of education for the various grade levels and district sizes. For 1998–99, the statutory factors were adjusted by 75% of the difference between those weights and weights calculated on the five-year average costs, as shown below.

Category (Grade level & size)	“Statutory” Weighting Factor	Weighting Factor Applied in 1998–99
Approved preschool	1.010	1.2924
Kindergarten (all districts)	0.500	0.5720
Rural elementary (1–8)	1.280	1.3198
Grades 1–6 (<100 ADM)	1.090	1.2012
Grades 1–6 (100–999)	0.905	0.9477
Grades 1–6 (1,000 +)	0.950	0.9706
Grades 7–8 (all districts)	1.010	0.9832
Grades 9–12 (< 75 ADM)	1.625	1.4905
Grades 9–12 (75–149)	1.335	1.1981
Grades 9–12 (150–549)	1.240	1.0917
Grades 9–12 (550 +)	1.140	1.0473

**Adjustments for Special Factors:** None reported.

**Aid Distribution Schedule:** Not reported.

**Districts Off Formula:** Not reported.

## VI. TRANSPORTATION

**Funding in 1998–1999:** \$18 million.

**Percentage of Total State Aid:** 7.0%.

**Description:** Funding for transportation is provided to a maximum of 90% of actual expenditures under a formula that includes the number of miles transported, the number of pupil days, the type of vehicle used, eligibility based upon distance between students’ residences and schools, and the setting. In 1998–99, there were five categories for calculating transportation aid. For transportation outside city

limits, school districts were eligible for funding of 25 cents per mile for vehicles with capacities of less than 10 students. For larger vehicles, districts received 67 cents per mile plus 40 cents per day per student. For any means of transportation of eligible students within city limits, school districts received 20 cents per student per one-way trip. If such transportation was provided by vehicles other than commercial buses, the district was eligible for an additional 25 cents per mile for in-city transportation. If students were transported by parents, in cases where district transportation was not provided, the district could reimburse parents and then claim 40 cents per mile per day if the students lived more than two miles from the school.

**Extent of Participation:** Not reported.

## VII. SPECIAL EDUCATION

**Funding in 1998–1999:** 17 million.

**Percentage of Total State Aid:** 6.0%.

**Description:** The provisions for state funding of special education have been changed during each of the past three legislative sessions. The method in place in 1998–99 provided funding in three different categories. As noted previously, special education ADM payments of \$134 per pupil were included and equalized in the calculation of net state aid payments. Special education ADM payments constituted approximately 75% of all special education funding provided by the state. A second mechanism provided payments to school districts that incurred excess costs of special education services. Districts were responsible for special education expenditures per student to two and one-half times the state average of per-pupil expenditures. Beyond that amount, the state reimbursed districts for 80% of the “excess costs.” The third provision for special education funding supported excess costs for students placed by state agencies or court order. In those instances, the district of residence was responsible only for education and/or special education costs to the state average of per-pupil expenditures and the state paid all costs beyond that amount.

**Extent of Participation:** Not reported.

## VIII. COMPENSATORY EDUCATION

The state does not fund or require a compensatory education program. Most school districts, however, participate in the federally funded Title I program. Certain special education programs—particularly those for preschool-age

children—are targeted for students requiring compensatory assistance. Similarly, the federally funded Head Start program targets populations for whom compensatory education is indicated.

## **IX. GIFTED AND TALENTED EDUCATION**

**Funding in 1997–1999:** \$0.2 million.

**Percentage of Total State Aid:** N/A.

**Description:** The Legislative Assembly appropriated \$200,000 per year for approved gifted and talented programs for the 1997–99 biennium.

**Extent of Participation:** Not reported.

## **X. BILINGUAL EDUCATION**

**Funding in 1998–1999:** \$0.15 million.

**Percentage of Total State Aid:** N/A.

**Description:** The Legislative Assembly appropriated \$150,000 per year for approved programs for students with limited English proficiency (LEP). Such programs received \$300 per student served.

**Extent of Participation:** Not reported.

## **XI. EARLY CHILDHOOD EDUCATION**

Approved early childhood programs were funded through a pupil weighting factor within the equalized formula as explained previously.

## **XII. OTHER CATEGORICAL PROGRAMS**

The state of North Dakota supports three additional categorical programs: vocational education, home-bound instruction, and supplemental revenue to provide greater equity for property poor districts. For reimbursement of costs associated with provision of instruction to students who were home-bound, the Legislative Assembly appropriated an average of \$473,000 each year of the 1997–99 biennium. The second categorical program was designed to provide a revenue supplement to school districts which had taxable valuation of property below the

state average and per-pupil (ADM) expenditures less than the state average in the preceding year. A formula was established to distribute \$1.5 million during the 1998–99 fiscal year.

Approved vocational education programs are funded in part through the State Board of Vocational Education, an agency that is involved also in funding programs at designated post-secondary institutions. Local school districts are expected to provide a major portion of funding and vocational programs are augmented by federal aid. For 1998–99, it is estimated that the state supported less than one third of secondary vocational education program expenditures.

### **XIII. TEACHER RETIREMENT AND BENEFITS**

The state does not provide direct contributions to the teacher retirement fund. The Legislative Assembly does specify the level of contribution required of both school districts and individual teachers. In 1998–99, teachers contributed 6.75% of their salaries and the school districts matched that level of contribution (N.D. CENT. CODE § 15-39.1-09). The Public Employees Retirement System provides retirement benefits for eligible classified staff members in public schools and other government agencies. Employees contribute 4% of their wages or salaries and employers contribute 4.12% (N.D. CENT. CODE § 54-52-05).

### **XIV. TECHNOLOGY**

School districts could, with voter approval, levy up to 5 mills for distance learning technology (N.D. CENT. CODE § 57–15–14.5).

### **XV. CAPITAL OUTLAY AND DEBT SERVICE**

Capital projects for North Dakota school districts are ultimately funded solely by local property taxes. For major projects, the local school board may request authority from the voters to issue bonds. A supermajority (60%) of the qualified voters voting on the proposed project is necessary for approval. Total outstanding bonds cannot exceed 10% of the total assessed valuation in the district. The voters confer authority to incur indebtedness at a specified amount, to then sell bonds to raise funding for the proposed project, and finally to establish a sinking and interest fund and associated levy to raise revenue to pay interest and amortize the outstanding principal (N.D. CENT. CODE § 21-03).

School boards may also secure authority from the voters to establish and maintain a building fund (N.D. CENT. CODE § 57–15–16). This authority may be approved to a maximum of 20 mills per year. Since 1985, school boards have had the

authority on their own initiative to sell bonds and then pay interest and amortize the principal from proceeds of the building fund levy. A number of restrictions and requirements apply to such action (N.D. CENT. CODE § 21-03).

## **XVI. STANDARDS/ACCOUNTABILITY MEASURES**

While the Legislative Assembly has not established broad standards or other measures of accountability, the Department of Public Instruction has maintained requirements for state accreditation of elementary and high schools. While the standards are focused primarily on input measures, there is a provision that requires schools to have a school improvement process in place.

## **XVII. REWARDS/SANCTIONS**

According to North Dakota law, any school district operating a high school that does not meet minimum requirements for curriculum and program receives support from the state for the high school at \$220 per student rather than funding based upon the equalized formula. Any school district in which an elementary or secondary school is found to be in violation of accreditation standards receives a warning of such violation. If the school remains unaccredited, the school district's state support is reduced by \$200 per weighted pupil unit; the support is reduced by an additional \$200 each year thereafter unless the school comes into compliance with accreditation standards (N.D. CENT. CODE § 15-40.1-06).

## **XVIII. FUNDING FOR NON-TRADITIONAL PUBLIC SCHOOLS**

In 1998–99, there was no special provision for funding of non-traditional public schools in North Dakota. School districts in which approved alternative high schools were provided could count such students for state aid as if enrolled in the regular programs.

## **XIX. AID TO PRIVATE SCHOOLS**

There are no provisions for aid to private schools in North Dakota.

## **XX. RECENT/PENDING LITIGATION**

There has been no challenge to the public school funding system in North Dakota since the case of *Bismarck Public School District No. 1 v. State*, 511 N.W.2d 247 (N.D. 1994). In that decision, a majority (three of five) of the justices on the North Dakota Supreme Court agreed with the trial court decision that the system of funding violated the state constitutional provision for a uniform system of

public education. However, the existing system failed to be ruled unconstitutional because a supermajority of four of the five justices must agree to such a determination.

## **XXI. SPECIAL TOPICS**

None reported.