NORTH Dakota | Governor Doug Burgum

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EXECUTIVE ORDER 2020-33

WHEREAS, on March 13, 2020, President Donald Trump issued a declaration of national emergency due to the growing COVID-19 crisis in the United States; and,

WHEREAS, a state of emergency was declared by Governor Doug Burgum on March 13, 2020 under Executive Order 2020-03; this Order activated the State Emergency Operations Plan (SEOP), implementing appropriate response and recovery actions and future mitigation measures; and,

WHEREAS, on March 15, 2020, Governor Burgum issued Executive Order 2020-04, closing all public and non-public K-12 schools to students; subsequently, school districts were directed to develop and implement distance learning plans for all students; and,

WHEREAS, the coronavirus pandemic led to abrupt and significant changes to the method, manner and delivery of K-12 educational services, challenging school administrations, teachers and other school staff members, students and their families and school district budgets; and,

WHEREAS, the unanticipated costs of the changes in education service delivery and additional public health and safety measures are expected to continue at least through the 2020-2021 school year; through efforts by the Department of Public Instruction, North Dakota has been awarded under the federal CARES Act, to help defray the incurred and ongoing costs related to the State's response to the coronavirus pandemic; and,

WHEREAS, strict compliance with the requirements in North Dakota Century Code (NDCC) § 15.1-07-29 (3) governing a school district's ending fund balance and NDCC § 15.1-27-35.3, directing the reduction of state aid payments, will prevent and hinder school districts from using the CARES Act funds for the benefit of K-12 education, and otherwise prevent necessary actions to ensure that all eligible students receive the educational services in a healthy, safe and productive learning environment.

NOW THEREFORE, Doug Burgum, Governor of North Dakota, by virtue of the authority under Article V, Section 1 of the North Dakota Constitution and NDCC Chapter 37-17.1, in consultation with the Superintendent, Department of Public Instruction, hereby orders:

1. Subsection 3 of NDCC § 15.1-07-29 regarding carryover of a school district's ending fund balance is suspended during the 2019-2020 school year, for school districts receiving CARES Act funds and experiencing unanticipated and continuing expenses related to the COVID-19 pandemic, including costs associated with school closures, implementation of distance learning plans, the provision of special education services, services to children with disabilities, activities addressing the needs of homeless students, students from low-

income families, English learners, racial and ethnic minorities, foster care youth, summer and afterschool learning programs, nutrition programs, behavioral health services and supports, health and sanitation measures, the cost of additional educational technology (hardware, software, connectivity and assistive technology or adaptive equipment) and any other activities necessary to maintain the operation and continuity of services in local school districts, maintain staff members and coordinate with local public health agencies.

2. All subsections of NDCC § 15.1-27-35, directing the reduction of state aid payments based upon the unobligated general fund balance of a school district on the preceding June 30, are suspended for the 2020-2021 school year.

This Order is issued for the foregoing reasons and based upon the following conditions:

1. The Governor is vested with the executive authority pursuant to Article V, Section 1 of the North Dakota Constitution; and,
2. The Governor is vested with statutory authority to issue executive orders to minimize or avert the effects of a public health emergency pursuant to Chapter 37-17.1 of the North Dakota Century Code; and,
3. A coordinated and effective effort of all state departments is required to minimize the impact of disasters and emergencies in this state.

This Order is effective immediately and shall remain in effect until it is rescinded.

Executed at Bismarck, North Dakota, this 27th day of May, 2020.

Doug Burgum, Governor

ATTEST:

Secretary of State