

Fifty-fifth  
Legislative Assembly  
of North Dakota

## ENGROSSED HOUSE BILL NO. 1393

Introduced by

Representatives Dalrymple, Hausauer, Byerly

Senators Freborg, Goetz

1 A BILL for an Act to create and enact a new section to chapter 15-40.1 of the North Dakota  
2 Century Code, relating to supplemental payments to high school districts; and to amend and  
3 reenact sections 15-40.1-06, 15-40.1-07, 15-40.1-08, and 57-15-14 of the North Dakota  
4 Century Code, relating to per student payments, the school district equalization factor, and tax  
5 levy limitations in school districts.

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

7 **SECTION 1. AMENDMENT.** Section 15-40.1-06 of the 1995 Supplement to the North  
8 Dakota Century Code is amended and reenacted as follows:

9 **15-40.1-06. Declaration of legislative intent - Educational support per student -**  
10 **School district equalization factor - Limitations.**

- 11 1. It is the intent of the legislative assembly, not considering any separate and  
12 supplemental payments as may be provided by law, to support elementary and  
13 secondary education in this state from state funds based on the educational cost  
14 per student. In determining the educational cost per student, the following criteria  
15 may not be used:
- 16 a. Expenditures for capital outlay for buildings and sites, or debt service.
  - 17 b. Expenditures from school activities and school lunch programs.
  - 18 c. Expenditures for the cost of transportation, including the cost of schoolbuses.
- 19 2. a. The educational support per student during the first year of the ~~1995-97~~  
20 1997-99 biennium must be one thousand ~~seven~~ nine hundred ~~fifty-seven~~  
21 forty-six dollars and for the second year of the 1997-99 biennium the  
22 educational support per student must be ~~one~~ two thousand ~~eight hundred~~  
23 ~~sixty-two~~ forty-seven dollars and is the basis for calculating grants-in-aid on a  
24 per student basis as provided in sections 15-40.1-07 and 15-40.1-08.

- 1           b. School districts operating high schools not meeting the minimum curriculum  
2           as provided in section 15-41-24 or the teacher qualifications in section  
3           15-41-25 must be supported in the amount of two hundred twenty dollars,  
4           which is the basis for calculating grants-in-aid on a per student basis as  
5           provided in section 15-40.1-07.
- 6           c. School districts operating high schools that are not accredited pursuant to the  
7           accreditation standards adopted by the superintendent of public instruction on  
8           July 1, 1991, or that become unaccredited in any succeeding school year  
9           must be supported for the 1991-92 school year or for the first year that they  
10          become unaccredited in the amount of the educational support per student  
11          established in subdivision a, which is the basis for calculating grants-in-aid on  
12          a per student basis as provided in section 15-40.1-07, but those school  
13          districts are not entitled to the amounts resulting from applying the factors in  
14          that section. The amount of aid a school district is entitled to under this  
15          subsection for each high school that is not accredited must be reduced by two  
16          hundred dollars times the number of students in the school for the second  
17          school year that the high school is unaccredited, and an additional two  
18          hundred dollars per student in the unaccredited school for each additional  
19          year the school remains unaccredited. Any high school that becomes  
20          accredited is entitled to the per student payments provided for in section  
21          15-40.1-07 for the entire school year in which the school becomes accredited.
- 22          d. School districts operating elementary schools that are not accredited pursuant  
23          to the accreditation standards adopted by the superintendent of public  
24          instruction on July 1, 1992, or that become unaccredited in any succeeding  
25          school year must be supported for the 1992-93 school year or for the first  
26          year that they become unaccredited in the amount of the educational support  
27          per student established in subdivision a, which is the basis for calculating  
28          grants-in-aid on a per student basis as provided in section 15-40.1-08, except  
29          that the amount of aid that a school district is entitled to under this subsection  
30          for each elementary school that is unaccredited must be reduced by two  
31          hundred dollars times the number of students in the school each year that the

1 elementary school is unaccredited. Any elementary school that becomes  
2 accredited is entitled to the per student payments provided for in section  
3 15-40.1-08 for the entire school year in which the school becomes accredited.

- 4 3. In determining the amount of payments due school districts for tuition  
5 apportionment provided in section 15-44-03, and per student aid under this  
6 section, the amount of tuition apportionment, foundation aid, special education aid,  
7 and transportation aid for which a school district is eligible must be added together,  
8 and from that total, the following amounts must be subtracted:

- 9 a. The product of ~~twenty-eight~~ thirty-two mills for the ~~1995-96~~ 1997-98 school  
10 year and thirty-two mills for the ~~1996-97~~ 1998-99 school year times the latest  
11 available net assessed and equalized valuation of property of the school  
12 district. ~~For succeeding school years, the number of mills to be used in the~~  
13 ~~computation must be determined as follows:~~

- 14 (1) ~~The superintendent of public instruction shall determine the percentage~~  
15 ~~resulting from dividing the number of mills used in the computation the~~  
16 ~~previous year by the state average school district general fund mill levy.~~  
17 (2) ~~The superintendent of public instruction shall determine the amount of~~  
18 ~~foundation aid estimated to be distributed during the current year and~~  
19 ~~subtract from that the amount of foundation aid that was distributed~~  
20 ~~during the prior year, and divide the result by the amount of foundation~~  
21 ~~aid distributed during the prior year.~~  
22 (3) ~~The superintendent of public instruction shall multiply the quotient~~  
23 ~~determined under paragraph 2 by forty percent and shall add this~~  
24 ~~product to the percentage obtained in paragraph 1. This sum shall be~~  
25 ~~multiplied times the state average school district general fund mill levy~~  
26 ~~to determine the number of mills to be used in the computation~~  
27 ~~provided in subdivision a. However, the number of mills used may not~~  
28 ~~fall below thirty two mills, nor rise above twenty five percent of the state~~  
29 ~~average school district general fund mill levy.~~

b. The amount that the unobligated general fund balance of a school district on the preceding June thirtieth is in excess of three-fourths of the actual expenditures, plus an additional twenty thousand dollars.

4. No school district may receive foundation payments beyond the October payment unless the following reports have been filed with the superintendent of public instruction:

a. Annual average daily membership report.

b. Annual school district financial report.

c. The September tenth fall enrollment report.

d. The personnel report forms for certified and noncertified employees.

5. No school district may receive the January foundation payment unless the taxable valuation and mill levy certifications are on file with the department of public instruction by December fifteenth.

**SECTION 2. AMENDMENT.** Section 15-40.1-07 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-40.1-07. High school per student payments - Amount - Proportionate payments.** Payments must be made each year from state funds to each school district operating a high school and to each school district contracting to educate high school students in a federal school, subject to adjustment as provided in section 15-40.1-09, as follows:

1. For each high school district having under seventy-five students in average daily membership in grades nine through twelve, the amount of money resulting from multiplying the factor 1.625 adjusted by ~~fifty~~ eighty percent of the difference between 1.625 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, times the number of high school students in grades nine through twelve registered in that school district, times the educational support per student as provided in section 15-40.1-06. Beginning July 1, ~~1996~~ 1998, the factor is ~~1.625~~ adjusted by sixty five percent of the difference between 1.625 and the factor representing that which represents the five-year average cost of education per student for this category, as determined by the superintendent of public instruction.

2. For each high school district having seventy-five or more, but less than one hundred fifty students in average daily membership in grades nine through twelve, the amount of money resulting from multiplying the factor 1.335 adjusted by ~~five~~ eighty percent of the difference between 1.335 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, times the number of high school students in grades nine through twelve registered in that school district, times the educational support per student provided in section 15-40.1-06. Beginning July 1, ~~1996~~ 1998, the factor is ~~1.335 adjusted by sixty-five percent of the difference between 1.335 and the factor representing~~ that which represents the five-year average cost of education per student for this category, as determined by the superintendent of public instruction.
3. For each high school district having one hundred fifty or more, but less than five hundred fifty students in average daily membership in grades nine through twelve, the amount of money resulting from multiplying the factor 1.24 adjusted by ~~five~~ eighty percent of the difference between 1.24 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, times the number of high school students in grades nine through twelve registered in that school district, times the educational support per student provided in section 15-40.1-06. Beginning July 1, ~~1996~~ 1998, the factor is ~~1.24 adjusted by sixty-five percent of the difference between 1.24 and the factor representing~~ that which represents the five-year average cost of education per student for this category, as determined by the superintendent of public instruction.
4. For each high school district having a total high school enrollment of five hundred fifty or more students in average daily membership in grades nine through twelve, the amount of money resulting from multiplying the factor 1.14 adjusted by ~~five~~ eighty percent of the difference between 1.14 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, times the number of high school students in grades nine through twelve registered in that school district, times the

educational support per student provided in section 15-40.1-06. Beginning July 1, 1996 1998, the factor is 1.14 ~~adjusted by sixty five percent of the difference between 1.14 and the factor representing~~ that which represents the five-year average cost of education per student for this category, as determined by the superintendent of public instruction.

5. For high schools having an approved alternative education program, the amount of money resulting from multiplying the factor in:

- a. Subsection 1 times the number of students registered in the alternative education program, times the educational support per student provided in section 15-40.1-06, if the alternative education program has less than seventy-five students in average daily membership.
- b. Subsection 2 times the number of students registered in the alternative education program, times the educational support per student provided in section 15-40.1-06, if the alternative education program has seventy-five or more, but less than one hundred fifty students in average daily membership.
- c. Subsection 3 times the number of students registered in the alternative education program, times the educational support per student provided in section 15-40.1-06, if the alternative education program has one hundred fifty or more, but less than five hundred fifty students in average daily membership.
- d. Subsection 4 times the number of students registered in the alternative education program times the educational support per student as provided in section 15-40.1-06 if the alternative education program has five hundred fifty or more students in average daily membership.

Every high school district must receive at least as much in total payments as it would have received if it had the highest number of students in the next lower category. Payments may not be made unless four or more units of standard high school work approved by the superintendent of public instruction are offered during the current year, only certificated teachers have been employed, and the other standards prescribed by this chapter have been met. Payments must be made to the high school district in which the student is enrolled for graduation and units of approved vocational education in accordance with the provisions of

chapter 15-20.1, and other courses approved by the superintendent of public instruction, earned in another high school district must be included to meet the minimum four required units. In the case of students enrolled in nonpublic schools for graduation or students enrolled in less than four units of standard high school work who are in their fourth year of high school coursework and who are enrolled in approved alternative high school curriculum programs, proportionate payments must be made to the public school district in which the student is enrolled for specific courses. School districts offering high school summer school programs are eligible for proportionate payments provided each course offered satisfies requirements for graduation, comprises at least as many clock hours as courses offered during the regular school term, and complies with rules adopted by the superintendent of public instruction. The superintendent may adopt rules regarding eligibility for school districts to receive proportionate payments for summer education programs. The proportionate payment made under this section during the biennium for high school summer school programs may not exceed one and one-half percent of the total amount appropriated by the legislative assembly for foundation aid and transportation aid during the biennium.

**SECTION 3.** A new section to chapter 15-40.1 of the North Dakota Century Code is created and enacted as follows:

**Supplemental payment to high school districts.** The superintendent of public instruction shall calculate the average valuation of property per student by dividing the number of students in average daily membership in grades one through twelve in a high school district into the district's latest available net assessed and equalized taxable valuation of property. If the quotient is less than the latest available statewide average taxable valuation per student and if the district's educational expenditure per student is below the most recent available statewide average cost of education per student, the superintendent of public instruction shall:

1. Determine the difference between the latest available statewide average taxable valuation per student and the average valuation per student in the high school district;
2. Multiply the result determined under subsection 1 by the number of students in average daily membership in grades one through twelve in the high school district;
3. Multiply the result determined under subsection 2 by the number of general fund mills levied by the district in excess of one hundred fifty, provided that any mills

1           levied by the district which are in excess of two hundred ten may not be used in  
2           this calculation; and

- 3           4.   Multiply the result determined under subsection 3 by thirty percent. The result is  
4           the supplemental payment to which a high school district is entitled, in addition to  
5           any other amount provided under chapter 15-40.1.

6           **SECTION 4. AMENDMENT.** Section 15-40.1-08 of the 1995 Supplement to the North  
7   Dakota Century Code is amended and reenacted as follows:

8           **15-40.1-08. Elementary per student payments - Amount.** Payments must be made  
9   from state funds to each school district operating an elementary school and to each school  
10   district contracting to educate elementary students in a federal school, employing teachers  
11   holding valid certificates or permits in accordance with section 15-47-46 and chapter 15-36,  
12   adjusted as provided in section 15-40.1-09, as follows:

- 13          1.   For each one-room rural school, the amount of money resulting from multiplying  
14               the factor 1.28 adjusted by ~~fifty~~ eighty percent of the difference between 1.28 and  
15               the factor representing the five-year average cost of education per student for this  
16               category, as determined by the superintendent of public instruction, times the  
17               number of students in that school in grades one through eight in average daily  
18               membership, up to a maximum of sixteen students, times the educational support  
19               per student provided in section 15-40.1-06. There must be paid .9 times each  
20               additional student in its school in grades one through eight in average daily  
21               membership times the educational support per student provided in section  
22               15-40.1-06, except that no payment may be made for more than twenty students in  
23               average daily membership. If the one-room rural school is located in a school  
24               district with another elementary school, the weighting factor for the students in  
25               grades one through six must be based on the average daily membership in the  
26               district in grades one through six as provided in subsections 2 through 4. If the  
27               one-room rural school is located in a school district with another school that has  
28               students in grade seven or eight, the weighting factor for the students in grade  
29               seven or eight must be the same as that provided for in subsection 5. Beginning  
30               July 1, ~~1996~~ 1998, the factor is ~~1.28 adjusted by sixty-five percent of the difference~~  
31               ~~between 1.28 and~~ that which represents the five-year average cost of education

per student for this category, as determined by the superintendent of public instruction.

2. For each elementary school in school districts having under one hundred students in average daily membership in grades one through six, the amount of money resulting from multiplying the factor 1.09 adjusted by ~~fifty~~ eighty percent of the difference between 1.09 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, times the number of students in that school in grades one through six in average daily membership in each classroom or for each teacher, times the educational support per student provided in section 15-40.1-06, except that no payment may be made for more than twenty-five students in average daily membership in each classroom or for each teacher. Beginning July 1, ~~1996~~ 1998, the factor is ~~1.09 adjusted by sixty-five percent of the difference between 1.09 and~~ that which represents the five-year average cost of education per student for this category, as determined by the superintendent of public instruction.

3. For each elementary school in school districts having one hundred or more students in average daily membership in grades one through six, and provided the districts in which such schools are located have an average daily membership of less than one thousand elementary students in grades one through six, the amount of money resulting from multiplying the factor .905 adjusted by ~~fifty~~ eighty percent of the difference between .905 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, times the number of students in that school in grades one through six in average daily membership in each classroom or for each teacher times the educational support per student provided in section 15-40.1-06, except that no payment may be made for more than thirty students in average daily membership in each classroom or for each teacher. Beginning July 1, ~~1996~~ 1998, the factor is ~~.905 adjusted by sixty-five percent of the difference between~~ .905 and that which represents the five-year average cost of education per student for this category, as determined by the superintendent of public instruction.

- 1           4. For each elementary school in school districts having an average daily  
2           membership of one thousand or more elementary students in grades one through  
3           six, the amount of money resulting from multiplying the factor .95 adjusted by ~~fifty~~  
4           eighty percent of the difference between .95 and the factor representing the  
5           five-year average cost of education per student for this category, as determined by  
6           the superintendent of public instruction, times the number of students in that  
7           school in grades one through six in average daily membership in each classroom  
8           or for each teacher times the educational support per student provided in section  
9           15-40.1-06, except that no payment may be made for more than thirty students in  
10          average daily membership in each classroom or for each teacher. Beginning  
11          July 1, ~~1996~~ 1998, the factor is ~~.95 adjusted by sixty five percent of the difference~~  
12          ~~between .95 and~~ that which represents the five-year average cost of education per  
13          student for this category, as determined by the superintendent of public instruction.
- 14          5. For each of the above classes of elementary schools, except for one-room rural  
15          schools that are not located in a district with another school having students in  
16          grade seven or eight, there must be paid to each school the amount of money  
17          resulting from multiplying the factor 1.01 adjusted by ~~fifty~~ eighty percent of the  
18          difference between 1.01 and the factor representing the five-year average cost of  
19          education per student for this category, as determined by the superintendent of  
20          public instruction, times the number of students in that school in grades seven and  
21          eight in average daily membership in each classroom or for each teacher times the  
22          educational support per student provided in section 15-40.1-06, except that no  
23          payment may be made for more than thirty students in average daily membership  
24          in each classroom or for each teacher. Beginning July 1, ~~1996~~ 1998, the factor is  
25          ~~1.01 adjusted by sixty five percent of the difference between 1.01 and~~ that which  
26          represents the five-year average cost of education per student for this category, as  
27          determined by the superintendent of public instruction.
- 28          6. For each elementary school having students under the compulsory age for school  
29          attendance, but not less than three years of age, in a special education program  
30          approved by the director of special education, the amount of money resulting from  
31          multiplying the factor 1.01 adjusted by ~~fifty~~ eighty percent of the difference

between 1.01 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, times the number of special education students in that school under the compulsory age for school attendance in average daily membership in each classroom or for each teacher times the educational support per student provided in section 15-40.1-06. Beginning July 1, ~~1996~~ 1998, the factor is ~~1.01 adjusted by sixty-five percent of the difference between 1.01 and~~ that which represents the five-year average cost of education per student for this category, as determined by the superintendent of public instruction.

7. For each elementary school providing a kindergarten that is established according to provisions of section 15-45-01, the amount of money resulting from multiplying the factor .50 adjusted by ~~fifty-eighty~~ sixty-five percent of the difference between .50 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, times the number of students in that school in average daily membership in each classroom or for each teacher times the educational support per student, as provided under section 15-40.1-06, except that no payment may be made for more than twenty-five students in average daily membership in each classroom or for each teacher. The full per student payment may be made only to those kindergarten programs providing the equivalent of ninety full days of classroom instruction during any twelve-month period. Programs providing shorter periods of instruction during the same time period must receive a proportionately smaller per student payment. Beginning July 1, ~~1996~~ 1998, the factor is ~~.50 adjusted by sixty-five percent of the difference between .50 and~~ that which represents the five-year average cost of education per student for this category, as determined by the superintendent of public instruction.

The superintendent of public instruction shall make proportionate payments to each public school district educating students who are also enrolled in nonpublic schools.

Every school district must receive at least as much in total payments for elementary students as it would have received if it had the highest number of students in the next lower category.

1           **SECTION 5. AMENDMENT.** Section 57-15-14 of the 1995 Supplement to the North  
2 Dakota Century Code is amended and reenacted as follows:

3           **57-15-14. Tax levy limitations in school districts.** The aggregate amount levied  
4 each year for the purposes listed in section 57-15-14.2 by any school district, except the Fargo  
5 school district, may not exceed the amount in dollars which the school district levied for the  
6 prior school year plus eighteen percent up to a general fund levy of one hundred ~~eighty-five~~  
7 ninety-two mills on the dollar of the taxable valuation of the district, except that:

- 8           1. In any school district having a total population in excess of four thousand  
9           according to the last federal decennial census:
  - 10           a. There may be levied any specific number of mills that upon resolution of the  
11           school board has been submitted to and approved by a majority of the  
12           qualified electors voting upon the question at any regular or special school  
13           district election.
  - 14           b. There is no limitation upon the taxes which may be levied if upon resolution of  
15           the school board of any such district the removal of the mill levy limitation has  
16           been submitted to and approved by a majority of the qualified electors voting  
17           at any regular or special election upon such question.
- 18           2. In any school district having a total population of less than four thousand, there  
19           may be levied any specific number of mills that upon resolution of the school board  
20           has been approved by fifty-five percent of the qualified electors voting upon the  
21           question at any regular or special school election.
- 22           3. In any school district in which the total assessed valuation of property has  
23           increased twenty percent or more over the prior year and in which as a result of  
24           that increase the school district is entitled to less in state foundation aid payments  
25           provided in sections 15-40.1-06 through 15-40.1-08 because of the deduction  
26           required in subsection 3 of section 15-40.1-06, there may be levied any specific  
27           number of mills more in dollars than was levied in the prior year up to a general  
28           fund levy of one hundred ~~eighty-five~~ ninety-two mills on the dollar of the taxable  
29           valuation of the school district. The additional levy authorized by this subsection  
30           may be levied for not more than two years because of any twenty percent or  
31           greater annual increase in assessed valuation. The total amount of revenue

1 generated in excess of the eighteen percent increase which is otherwise permitted  
2 by this section may not exceed the amount of state aid payments lost as a result of  
3 applying the deduction provided in subsection 3 of section 15-40.1-06 to the  
4 increased assessed valuation of the school district in a one-year period.

5 The question of authorizing or discontinuing such specific number of mills authority or unlimited  
6 taxing authority in any school district must be submitted to the qualified electors at the next  
7 regular election upon resolution of the school board or upon the filing with the school board of a  
8 petition containing the signatures of qualified electors of the district equal in number to twenty  
9 percent of the number of persons enumerated in the school census for that district for the most  
10 recent year such census was taken, unless such census is greater than four thousand in which  
11 case only fifteen percent of the number of persons enumerated in the school census is  
12 required. However, not fewer than twenty-five signatures are required unless the district has  
13 fewer than twenty-five qualified electors, in which case the petition must be signed by not less  
14 than twenty-five percent of the qualified electors of the district. In those districts with fewer than  
15 twenty-five qualified electors, the number of qualified electors in the district must be determined  
16 by the county superintendent for such county in which such school is located. However, the  
17 approval of discontinuing either such authority does not affect the tax levy in the calendar year  
18 in which the election is held. The election must be held in the same manner and subject to the  
19 same conditions as provided in this section for the first election upon the question of authorizing  
20 the mill levy.