

**SECOND ENGROSSMENT  
with Conference Committee Amendments**

Fifty-fifth  
Legislative Assembly  
of North Dakota

**REENGROSSED SENATE BILL NO. 2338**

Introduced by

Senators Freborg, G. Nelson

1 A BILL for an Act to amend and reenact sections 15-40.1-06, 15-40.1-07, and 15-40.1-08 of the  
2 North Dakota Century Code, relating to per student payments and the school district  
3 equalization factor; to provide for a legislative council study; and to provide an appropriation.

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

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

7 **15-40.1-06. Declaration of legislative intent - Educational support per student -**  
8 **School district equalization factor - Limitations.**

9 1. It is the intent of the legislative assembly, not considering any separate and  
10 supplemental payments as may be provided by law, to support elementary and  
11 secondary education in this state from state funds based on the educational cost  
12 per student. In determining the educational cost per student, the following criteria  
13 may not be used:

- 14 a. Expenditures for capital outlay for buildings and sites, or debt service.  
15 b. Expenditures from school activities and school lunch programs.  
16 c. Expenditures for the cost of transportation, including the cost of schoolbuses.

17 2. a. The educational support per student during the first year of the ~~1995-97~~  
18 1997-99 biennium must be one thousand ~~seven~~ nine hundred ~~fifty-seven~~  
19 fifty-four dollars and for the second year of the 1997-99 biennium the  
20 educational support per student must be ~~one~~ two thousand ~~eight hundred~~  
21 ~~sixty-two~~ thirty-two dollars and is the basis for calculating grants-in-aid on a  
22 per student basis as provided in sections 15-40.1-07 and 15-40.1-08.

23 b. School districts operating high schools not meeting the minimum curriculum  
24 as provided in section 15-41-24 or the teacher qualifications in section

15-41-25 must be supported in the amount of two hundred twenty dollars,  
which is the basis for calculating grants-in-aid on a per student basis as  
provided in section 15-40.1-07.

c. School districts operating high schools that are not accredited pursuant to the  
accreditation standards adopted by the superintendent of public instruction on  
July 1, 1991, or that become unaccredited in any succeeding school year  
must be supported for the 1991-92 school year or for the first year that they  
become unaccredited in the amount of the educational support per student  
established in subdivision a, which is the basis for calculating grants-in-aid on  
a per student basis as provided in section 15-40.1-07, but those school  
districts are not entitled to the amounts resulting from applying the factors in  
that section. The amount of aid a school district is entitled to under this  
subsection for each high school that is not accredited must be reduced by two  
hundred dollars times the number of students in the school for the second  
school year that the high school is unaccredited, and an additional two  
hundred dollars per student in the unaccredited school for each additional  
year the school remains unaccredited. Any high school that becomes  
accredited is entitled to the per student payments provided for in section  
15-40.1-07 for the entire school year in which the school becomes accredited.

d. School districts operating elementary schools that are not accredited pursuant  
to the accreditation standards adopted by the superintendent of public  
instruction on July 1, 1992, or that become unaccredited in any succeeding  
school year must be supported for the 1992-93 school year or for the first  
year that they become unaccredited in the amount of the educational support  
per student established in subdivision a, which is the basis for calculating  
grants-in-aid on a per student basis as provided in section 15-40.1-08, except  
that the amount of aid that a school district is entitled to under this subsection  
for each elementary school that is unaccredited must be reduced by two  
hundred dollars times the number of students in the school each year that the  
elementary school is unaccredited. Any elementary school that becomes

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

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

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

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

- 29 b. The amount that the unobligated general fund balance of a school district on  
30 the preceding June thirtieth is in excess of three-fourths of the actual  
31 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~~ sixty-five 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~~ seventy-five 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.
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 ~~fifty~~ sixty-five percent of the difference between 1.335 and the factor representing the

1 five-year average cost of education per student for this category, as determined by  
2 the superintendent of public instruction, times the number of high school students  
3 in grades nine through twelve registered in that school district, times the  
4 educational support per student provided in section 15-40.1-06. Beginning July 1,  
5 ~~1996~~ 1998, the factor is 1.335 adjusted by ~~sixty-five~~ seventy-five percent of the  
6 difference between 1.335 and the factor representing the five-year average cost of  
7 education per student for this category, as determined by the superintendent of  
8 public instruction.

9 3. For each high school district having one hundred fifty or more, but less than five  
10 hundred fifty students in average daily membership in grades nine through twelve,  
11 the amount of money resulting from multiplying the factor 1.24 adjusted by ~~fifty~~  
12 sixty-five percent of the difference between 1.24 and the factor representing the  
13 five-year average cost of education per student for this category, as determined by  
14 the superintendent of public instruction, times the number of high school students  
15 in grades nine through twelve registered in that school district, times the  
16 educational support per student provided in section 15-40.1-06. Beginning July 1,  
17 ~~1996~~ 1998, the factor is 1.24 adjusted by ~~sixty-five~~ seventy-five percent of the  
18 difference between 1.24 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.

21 4. For each high school district having a total high school enrollment of five hundred  
22 fifty or more students in average daily membership in grades nine through twelve,  
23 the amount of money resulting from multiplying the factor 1.14 adjusted by ~~fifty~~  
24 sixty-five percent of the difference between 1.14 and the factor representing the  
25 five-year average cost of education per student for this category, as determined by  
26 the superintendent of public instruction, times the number of high school students  
27 in grades nine through twelve registered in that school district, times the  
28 educational support per student provided in section 15-40.1-06. Beginning July 1,  
29 ~~1996~~ 1998, the factor is 1.14 adjusted by ~~sixty-five~~ seventy-five percent of the  
30 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.

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

1 in less than four units of standard high school work who are in their fourth year of high school  
2 coursework and who are enrolled in approved alternative high school curriculum programs,  
3 proportionate payments must be made to the public school district in which the student is  
4 enrolled for specific courses. School districts offering high school summer school programs are  
5 eligible for proportionate payments provided each course offered satisfies requirements for  
6 graduation, comprises at least as many clock hours as courses offered during the regular  
7 school term, and complies with rules adopted by the superintendent of public instruction. The  
8 superintendent may adopt rules regarding eligibility for school districts to receive proportionate  
9 payments for summer education programs. The proportionate payment made under this  
10 section during the biennium for high school summer school programs may not exceed one and  
11 one-half percent of the total amount appropriated by the legislative assembly for foundation aid  
12 and transportation aid during the biennium.

13 **SECTION 3. AMENDMENT.** Section 15-40.1-08 of the 1995 Supplement to the North  
14 Dakota Century Code is amended and reenacted as follows:

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

- 20 1. For each one-room rural school, the amount of money resulting from multiplying  
21 the factor 1.28 adjusted by ~~fifty~~ sixty-five percent of the difference between 1.28  
22 and the factor representing the five-year average cost of education per student for  
23 this category, as determined by the superintendent of public instruction, times the  
24 number of students in that school in grades one through eight in average daily  
25 membership, up to a maximum of sixteen students, times the educational support  
26 per student provided in section 15-40.1-06. There must be paid .9 times each  
27 additional student in its school in grades one through eight in average daily  
28 membership times the educational support per student provided in section  
29 15-40.1-06, except that no payment may be made for more than twenty students in  
30 average daily membership. If the one-room rural school is located in a school  
31 district with another elementary school, the weighting factor for the students in

grades one through six must be based on the average daily membership in the district in grades one through six as provided in subsections 2 through 4. If the one-room rural school is located in a school district with another school that has students in grade seven or eight, the weighting factor for the students in grade seven or eight must be the same as that provided for in subsection 5. Beginning July 1, ~~1996~~ 1998, the factor is 1.28 adjusted by ~~sixty-five~~ seventy-five percent of the difference between 1.28 and 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~~ sixty-five 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~~ seventy-five percent of the difference between 1.09 and 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~~ sixty-five 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~~ seventy-five percent of the difference between .905 and the five-year average cost of education per student for this category, as determined by the superintendent of public instruction.

4. For each elementary school in school districts having an average daily membership of one thousand or more elementary students in grades one through six, the amount of money resulting from multiplying the factor .95 adjusted by ~~fifty~~ sixty-five percent of the difference between .95 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 .95 adjusted by ~~sixty-five~~ seventy-five percent of the difference between .95 and the five-year average cost of education per student for this category, as determined by the superintendent of public instruction.

5. For each of the above classes of elementary schools, except for one-room rural schools that are not located in a district with another school having students in grade seven or eight, there must be paid to each school the amount of money resulting from multiplying the factor 1.01 adjusted by ~~fifty~~ sixty-five 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 students in that school in grades seven and eight 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 1.01 adjusted by ~~sixty-five~~ seventy-five percent of the difference between 1.01 and

the five-year average cost of education per student for this category, as determined by the superintendent of public instruction.

6. For each elementary school having students under the compulsory age for school attendance, but not less than three years of age, in a special education program approved by the director of special education, the amount of money resulting from multiplying the factor 1.01 adjusted by ~~fifty~~ sixty-five 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~~ seventy-five percent of the difference between 1.01 and 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~~ 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~~ seventy-five percent of the difference between .50 and the five-year average cost

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

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

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

8                   **SECTION 4. LEGISLATIVE COUNCIL STUDY OF EDUCATION FINANCE.** The  
9 legislative council shall appoint a committee to study the financing of elementary and  
10 secondary schools and the availability of state support for school construction. The legislative  
11 council shall ensure that the committee contains a balanced representation. During the  
12 1997-98 interim, the committee shall review the formulas used to equalize state aid including  
13 formulas for student transportation and special education, funding sources that would be  
14 alternatives to property tax, and any other issues related to the financing of elementary and  
15 secondary schools. The legislative council shall report its findings and recommendations,  
16 together with any legislation necessary to implement the recommendations, to the fifty-sixth  
17 legislative assembly.

18                   **SECTION 5. APPROPRIATION.** There is hereby appropriated out of any moneys in  
19 the general fund in the state treasury, not otherwise appropriated, the sum of \$50,000, or so  
20 much of the sum as may be necessary, to the superintendent of public instruction for the  
21 purpose of developing data envelopment analysis for North Dakota school districts, integrating  
22 the data envelopment analysis into the schoolmaps system, and updating the profiles of North  
23 Dakota school districts, for the biennium beginning July 1, 1997, and ending June 30, 1999.