

Fifty-sixth  
Legislative Assembly  
of North Dakota

## ENGROSSED SENATE BILL NO. 2162

Introduced by

Education Committee

(At the request of the Office of Management and Budget)

1 A BILL for an Act to provide for the reimbursement of certain reorganized districts; to create  
2 and enact two new sections to chapter 15-40.1 of the North Dakota Century Code, relating to  
3 contingent per student payments and proportionate payments for summer school programs; to  
4 amend and reenact subsection 2 of section 15-40.1-06, sections 15-40.1-07, 15-40.1-07.3,  
5 15-40.1-08, subsection 1 of section 57-15-14.2, and section 57-15-17.1 of the North Dakota  
6 Century Code, relating to educational support per student and payment factors; and to declare  
7 an emergency.

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

9 **SECTION 1. AMENDMENT.** Subsection 2 of section 15-40.1-06 of the 1997  
10 Supplement to the North Dakota Century Code is amended and reenacted as follows:

11 2. a. The educational support per student during the first year of the ~~1997-99~~  
12 1999-2001 biennium must be ~~one thousand nine hundred fifty-four two~~  
13 thousand one hundred thirty-nine dollars and for the second year of the  
14 ~~1997-99~~ 1999-2001 biennium the educational support per student must be  
15 ~~two thousand thirty-two~~ two thousand two hundred ten dollars and is the basis  
16 for calculating grants-in-aid on a per student basis as provided in sections  
17 15-40.1-07 and 15-40.1-08.

18 b. The superintendent of public instruction shall monitor student enrollments. If  
19 the superintendent determines that the student enrollment figures warrant an  
20 adjustment in the amount of educational support per student set forth in  
21 subdivision a, the superintendent shall make an adjustment and reflect the  
22 adjustment in the March foundation aid payment, the April foundation aid  
23 payment, and in the final remaining foundation aid payment distributed before  
24 June thirtieth of each year, as provided for in section 15-40.1-05.

1           c. 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           e- d. 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          e- e. 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

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

**SECTION 2. AMENDMENT.** Section 15-40.1-07 of the 1997 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 ~~sixty-five~~ eighty-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, ~~1998~~ 2000, the factor is ~~1.625 adjusted by seventy-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 ~~sixty-five~~ eighty-five 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, ~~1998~~ 2000, the factor is ~~1.335 adjusted by seventy-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 ~~sixty-five~~ eighty-five 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, ~~1998~~ 2000, the factor is ~~1.24 adjusted by seventy-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 ~~sixty-five~~ eighty-five 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, ~~1998~~ 2000, the factor is ~~1.14 adjusted by seventy-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. AMENDMENT.** Section 15-40.1-07.3 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15-40.1-07.3. Per student payments - Reorganization of school districts.**

1. If any school district receiving per student payments calculated under section 15-40.1-07 reorganizes with another school district under chapter 15-27.3 or 15-27.6 before August 1, 1997, the school district resulting from the reorganization is entitled to receive the same per student payments for each high school student as each separate school district received for each high school student prior to the reorganization, for a period of four years.
2. If any school district receiving per student payments calculated under this chapter reorganizes with another school district under chapter 15-27.3 or 15-27.6 after July 31, 1997, the school district resulting from the reorganization is entitled to receive the same per student payments for each high school and elementary student as each separate school district received for each high school and elementary student prior to the reorganization, for a period of four years.
3. The weighting factor for each district will be adjusted proportionately over a period of two years, following the period of time provided in subsection 1 or 2, until the adjusted weighting factor equals the weighting factor for the combined enrollment resulting from the reorganization.
4. Notwithstanding the provisions of any other law, no school district may receive less in per student payments for the first year of its reorganization than the total amount that the districts participating in the reorganization received in per student payments for the school year immediately preceding the reorganization. If less than a whole school district participated in a reorganization, the superintendent of

public instruction shall prorate the payments to which the newly reorganized district is entitled under this subsection.

**SECTION 4. AMENDMENT.** Section 15-40.1-08 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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

1. For each one-room rural school, the amount of money resulting from multiplying the factor 1.28 adjusted by ~~sixty-five~~ eighty-five percent of the difference between 1.28 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 eight in average daily membership, up to a maximum of sixteen students, times the educational support per student provided in section 15-40.1-06. There must be paid .9 times each additional student in its school in grades one through eight in average daily membership times the educational support per student provided in section 15-40.1-06, except that no payment may be made for more than twenty students in average daily membership. If the one-room rural school is located in a school 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, ~~1998~~ 2000, the factor is ~~1.28 adjusted by seventy-five percent of the difference 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 ~~sixty-five~~ eighty-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, ~~1998~~ 2000, the factor is ~~1.09 adjusted by seventy-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 ~~sixty-five~~ eighty-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, ~~1998~~ 2000, the factor is ~~.905 adjusted by seventy-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.
4. For each elementary school in school districts having an average daily membership of one thousand or more elementary students in grades one through



1           six, the amount of money resulting from multiplying the factor .95 adjusted by  
2           ~~sixty-five~~ eighty-five percent of the difference between .95 and the factor  
3           representing the five-year average cost of education per student for this category,  
4           as determined by the superintendent of public instruction, times the number of  
5           students in that school in grades one through six in average daily membership in  
6           each classroom or for each teacher times the educational support per student  
7           provided in section 15-40.1-06, except that no payment may be made for more  
8           than thirty students in average daily membership in each classroom or for each  
9           teacher. Beginning July 1, ~~1998~~ 2000, the factor is ~~.95 adjusted by seventy-five~~  
10          ~~percent of the difference between .95 and~~ that which represents the five-year  
11          average cost of education per student for this category, as determined by the  
12          superintendent of public instruction.

- 13          5. For each of the above classes of elementary schools, except for one-room rural  
14          schools that are not located in a district with another school having students in  
15          grade seven or eight, there must be paid to each school the amount of money  
16          resulting from multiplying the factor 1.01 adjusted by ~~sixty-five~~ eighty-five percent  
17          of the difference between 1.01 and the factor representing the five-year average  
18          cost of education per student for this category, as determined by the  
19          superintendent of public instruction, times the number of students in that school in  
20          grades seven and eight in average daily membership in each classroom or for  
21          each teacher times the educational support per student provided in section  
22          15-40.1-06, except that no payment may be made for more than thirty students in  
23          average daily membership in each classroom or for each teacher. Beginning  
24          July 1, ~~1998~~ 2000, the factor is ~~1.01 adjusted by seventy-five percent of the~~  
25          ~~difference between 1.01 and~~ that which represents the five-year average cost of  
26          education per student for this category, as determined by the superintendent of  
27          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 ~~sixty-five~~ eighty-five percent of the

1 difference between 1.01 and the factor representing the five-year average cost of  
2 education per student for this category, as determined by the superintendent of  
3 public instruction, times the number of special education students in that school  
4 under the compulsory age for school attendance in average daily membership in  
5 each classroom or for each teacher times the educational support per student  
6 provided in section 15-40.1-06. Beginning July 1, ~~1998~~ 2000, the factor is ~~1.04~~  
7 ~~adjusted by seventy-five percent of the difference between 1.01 and that which~~  
8 represents the five-year average cost of education per student for this category, as  
9 determined by the superintendent of public instruction.

- 10 7. For each elementary school providing a kindergarten that is established according  
11 to provisions of section 15-45-01, the amount of money resulting from multiplying  
12 the factor .50 ~~adjusted by sixty-five~~ eighty-five percent of the difference between  
13 .50 and the factor representing the five-year average cost of education per student  
14 for this category, as determined by the superintendent of public instruction, times  
15 the number of students in that school in average daily membership in each  
16 classroom or for each teacher times the educational support per student, as  
17 provided under section 15-40.1-06, except that no payment may be made for more  
18 than twenty-five students in average daily membership in each classroom or for  
19 each teacher. The full per student payment may be made only to those  
20 kindergarten programs providing the equivalent of ninety full days of classroom  
21 instruction during any twelve-month period. Programs providing shorter periods of  
22 instruction during the same time period must receive a proportionately smaller per  
23 student payment. Beginning July 1, ~~1998~~ 2000, the factor is ~~.50 adjusted by~~  
24 ~~seventy-five percent of the difference between .50 and that which represents~~ the  
25 five-year average cost of education per student for this category, as determined by  
26 the superintendent of public instruction.

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

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

1           **SECTION 5.** A new section to chapter 15-40.1 of the North Dakota Century Code is  
2 created and enacted as follows:

3           **Contingent per student payments.** If any funds appropriated by the legislative  
4 assembly to the grants-foundation aid and transportation line item remain after completion of  
5 the April first distribution in each odd-numbered year as provided for by section 15-40.1-05, the  
6 superintendent of public instruction shall distribute the funds as a separate and additional per  
7 student payment on a weighted basis as determined under chapter 15-40.1.

8           **SECTION 6.** A new section to chapter 15-40.1 of the North Dakota Century Code is  
9 created and enacted as follows:

10           **Summer school programs - Proportionate payments.**

- 11           1. A school district that offers high school summer school programs is entitled to  
12 receive proportionate payments provided each course offered satisfies  
13 requirements for graduation, comprises at least as many clock hours as courses  
14 offered during the regular school term, and complies with rules adopted by the  
15 superintendent of public instruction.
- 16           2. A school district that offers remedial elementary summer school programs is  
17 entitled to receive proportionate payments provided the programs comply with  
18 rules adopted by the superintendent of public instruction.
- 19           3. The superintendent of public instruction may adopt rules regarding proportionate  
20 payments for remedial elementary summer school programs and high school  
21 summer school programs.
- 22           4. Proportionate payments made under this section during a biennium for summer  
23 school programs may not exceed one and one-half percent of the total amount  
24 appropriated by the legislative assembly for foundation aid and transportation aid  
25 during the biennium, or eight million dollars, whichever is less. No more than  
26 seventy-five percent of the amount made available under this subsection may be  
27 used to support high school summer school programs and no more than  
28 twenty-five percent of the amount made available under this subsection may be  
29 used to support remedial elementary summer school programs.

30           **SECTION 7. AMENDMENT.** Subsection 1 of section 57-15-14.2 of the North Dakota  
31 Century Code is amended and reenacted as follows:

- 1           1. A school board of any school district may levy an amount sufficient to cover
- 2           general expenses including the costs of the following:
- 3           a. Board and lodging for high school students as provided in section 15-34.2-06.
- 4           b. The teachers' retirement fund as provided in section 15-39.1-28.
- 5           c. Tuition for students in grades seven through twelve as provided in section
- 6           15-40.2-12.
- 7           d. Special education program as provided in section 15-59-08.
- 8           e. The establishment and maintenance of an insurance reserve fund for
- 9           insurance purposes as provided in section 32-12.1-08.
- 10          f. A final judgment obtained against a school district.
- 11          g. The district's share of contribution to the old-age survivors' fund and matching
- 12          contribution for the social security fund as provided by chapter 52-09 and to
- 13          provide the district's share of contribution to the old-age survivors' fund and
- 14          matching contribution for the social security fund for contracted employees of
- 15          a multidistrict special education board.
- 16          h. The rental or leasing of buildings, property, or classroom space. Minimum
- 17          state standards for health and safety applicable to school building
- 18          construction shall apply to any rented or leased buildings, property, or
- 19          classroom space.
- 20          i. Unemployment compensation benefits.
- 21          j. The removal of asbestos substances from school buildings or the abatement
- 22          of asbestos substances in school buildings under any method approved by
- 23          the United States environmental protection agency and any repair,
- 24          replacement, or remodeling that results from such removal or abatement, any
- 25          remodeling required to meet specifications set by the Americans with
- 26          Disabilities Act Accessibility Guidelines for Buildings and Facilities as
- 27          contained in the appendix to title 28, Code of Federal Regulations, part 36
- 28          [28 CFR 36], and any remodeling required to meet requirements set by the
- 29          state fire marshal during the inspection of a public school.
- 30          k. Participating in cooperative vocational education programs approved by the
- 31          state board.

- l. Maintaining a vocational education program approved by the state board and established only for that school district.
- m. Paying the cost of purchasing, contracting, operating, and maintaining schoolbuses.
- n. Establishing and maintaining school library services.
- o. Equipping schoolbuses with two-way communications and central station equipment and providing for the installation and maintenance of such equipment.
- p. Establishing free public kindergartens in connection with the public schools of the district for the instruction of resident children below school age during the regular school term.
- q. Establishing, maintaining, and conducting a public recreation system.
- r. The district's share of contribution to finance an interdistrict cooperative agreement authorized by section 15-47-40.1.

**SECTION 8. AMENDMENT.** Section 57-15-17.1 of the North Dakota Century Code is amended and reenacted as follows:

**57-15-17.1. Multiyear asbestos abatement and required remodeling levy by school district.**

1. The governing body of any public school district may by resolution adopted by a two-thirds vote of the school board dedicate a tax levy for purposes of this section of not exceeding fifteen mills on the dollar of taxable valuation of property within the district for a period not longer than fifteen years. The school board may authorize and issue general obligation bonds to be paid from the proceeds of this dedicated levy for the purpose of ~~providing~~:
  - a. Providing funds for the removal of asbestos substances from school buildings or the abatement of asbestos substances in school buildings under any other method approved by the United States environmental protection agency and for any repair, replacement, or remodeling that results from removal or abatement of asbestos substances;
  - b. Any remodeling required to meet specifications set by the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities as

1                   contained in the appendix to title 28, Code of Federal Regulations, part 36  
2                   [28 CFR 36]; and

3                   c. Any remodeling required to meet requirements set by the state fire marshal  
4                   during the inspection of a public school.

5                   2. All revenue accruing from the levy under this section, except revenue deposited as  
6                   allowed by subsection 3, must be placed in a separate fund known as the asbestos  
7                   abatement fund and must be accounted for within the capital projects fund group  
8                   and disbursements must be made from such funds within this fund group for the  
9                   purpose of asbestos abatement.

10                  3. All revenue accruing from up to five mills of the fifteen mill levy under this section  
11                  must be placed in a separate fund known as the required remodeling fund and  
12                  must be accounted for within the capital projects fund group and disbursements  
13                  must be made from such funds within this fund group for the purpose of required  
14                  remodeling, as set forth in subsection 1.

15                  4. Any moneys remaining in the asbestos abatement fund after completion of the  
16                  principal and interest payments for any bonds issued for any school asbestos  
17                  abatement project and any funds remaining in the required remodeling fund after  
18                  completion of the remodeling projects must be transferred to the general fund of  
19                  the school district upon the order of the school board.

20                  **SECTION 9. REIMBURSEMENT - REORGANIZED DISTRICTS.** In distributing per  
21                  student payments for the 1997-99 biennium, the superintendent of public instruction shall  
22                  ensure that no school district reorganized after June 30, 1997, and before the effective date of  
23                  sections 1 through 8 of this Act receives less in per student payments for the first year of its  
24                  reorganization than the districts participating in the reorganization received in per student  
25                  payments for the school year immediately preceding the reorganization.

26                  **SECTION 10. EMERGENCY.** Section 9 of this Act is declared to be an emergency  
27                  measure.