

Fifty-sixth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2337

Introduced by

Senators Tomac, Kinnoin

Representatives Fairfield, Lemieux, Lundgren, Nowatzki

1 A BILL for an Act to amend and reenact subsection 1 of section 15-40.1-06, section 40-57.1-03,
2 subdivision b of subsection 15 of section 57-02-08, and section 57-39.2-26.1 of the North
3 Dakota Century Code, relating to per student payments, tax exemptions, and the allocation of
4 revenues among political subdivisions.

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

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

8 1. It is the intent of the legislative assembly, not considering any separate and
9 supplemental payments as may be provided by law, to support elementary and
10 secondary education in this state from state funds ~~based on the~~ at forty-eight
11 percent of the educational cost per student in the 1999-2001 biennium, at fifty-one
12 percent of the educational cost per student in the 2001-03 biennium, at fifty-four
13 percent of the educational cost per student in the 2003-05 biennium, at fifty-seven
14 percent of the educational cost per student in the 2005-07 biennium, and at sixty
15 percent of the educational cost per student in the 2007-09 biennium. For the
16 purposes of determining the general fund levy limitation for a taxable year, the
17 dollar amount levied for general purposes must be adjusted by subtracting the
18 additional amount to be allocated to the school district. In determining the
19 educational cost per student, the following criteria may not be used:
20 a. Expenditures for capital outlay for buildings and sites, or debt service.
21 b. Expenditures from school activities and school lunch programs.
22 c. Expenditures for the cost of transportation, including the cost of schoolbuses.

23 **SECTION 2. AMENDMENT.** Section 40-57.1-03 of the 1997 Supplement to the North
24 Dakota Century Code is amended and reenacted as follows:

1 **40-57.1-03. Municipality's authority to grant tax exemption or payments in lieu of**
2 **taxes - Notice to competitors - Limitations.** After negotiation with a potential project
3 operator, a municipality may grant a partial or complete exemption from ad valorem taxation on
4 all buildings, structures, fixtures, and improvements used in or necessary to the operation of a
5 project for a period not exceeding five years from the date of commencement of project
6 operations. After negotiation with a potential beginning farmer, a municipality may grant a
7 partial or complete exemption from ad valorem taxation on all newly acquired farmland and
8 ranchland for a period of up to five years from the date the individual commences farming or
9 ranching operations. A municipality may also grant a partial or complete exemption from ad
10 valorem taxation on buildings, structures, fixtures, and improvements used in or necessary to
11 the operation of a project that produces or manufactures a product from agricultural
12 commodities for all or part of the sixth year through the tenth year from the date of
13 commencement of project operations.

14 In addition to, or in lieu of, a property tax exemption granted under this section, a
15 municipality may establish an amount due as payments in lieu of ad valorem taxes on buildings,
16 structures, fixtures, and improvements used in the operation of a project upon which initial
17 construction is begun after June 30, 1994. The governing body of the municipality shall
18 designate the amount of the payments for each year and the beginning year and the concluding
19 year for payments in lieu of taxes, but the option to make payments in lieu of taxes under this
20 section may not extend beyond the twentieth year from the date of commencement of project
21 operations. To establish the amount of payments in lieu of taxes, the governing body of the
22 municipality may use actual or estimated levels of assessment and taxation or may establish
23 payment amounts based on other factors. The governing body of the municipality may
24 designate different amounts of payments in lieu of taxes in different years to recognize future
25 project expansion plans or other considerations.

26 By November first of each year, the municipality that granted the option to make
27 payments in lieu of taxes shall certify to the county auditor the amount of payments in lieu of
28 taxes due under this section in the following year. After receiving the statement from the
29 municipality, the county auditor shall certify the payments in lieu of taxes to the county treasurer
30 for collection at the time when, and in the manner in which, ad valorem taxes must be certified.
31 Upon receipt by the county treasurer of the amount of payments in lieu of taxes under this

1 section, the county treasurer shall apportion and distribute that amount to taxing districts on the
2 basis on which the general real estate tax levy is apportioned and distributed. The municipality
3 may enter into a written agreement with the local school district and any other local taxing
4 districts that wish to enter the agreement for an alternate method of apportionment and
5 distribution. If such an agreement is entered into, the county treasurer shall apportion and
6 distribute the money according to the written agreement. All provisions of law relating to
7 enforcement, administration, collection, penalties, and delinquency proceedings for ad valorem
8 taxes apply to payments in lieu of taxes under this section. However, the discount for early
9 payment of taxes under section 57-20-09 does not apply to payments in lieu of taxes under this
10 section. The buildings, structures, fixtures, and improvements comprising a project for which
11 payments in lieu of taxes are allowed under this section must be excluded from the valuation of
12 property in the taxing district for purposes of determining the mill rate for the taxing district.

13 Negotiations with potential project operators for tax exemption or payments in lieu of
14 taxes must be carried on by the city council or commission if the project is proposed to be
15 located within the boundaries of a city, and by the board of county commissioners if the project
16 is proposed to be located outside the corporate limits of any city. A partial exemption must be
17 stated as a percentage of the total ad valorem taxes assessed against the property. Unless the
18 governing body of the municipality determines that there is no existing business within the
19 municipality for which the potential project would be a competitor, the potential project operator
20 shall publish two notices to competitors, the form of which must be prescribed by the tax
21 commissioner, of the application for tax exemption or payments in lieu of taxes in the official
22 newspaper of the municipality at least one week apart. The publications must be completed not
23 less than fifteen nor more than thirty days before the governing body of the municipality is to
24 consider the application. The municipality shall determine whether the granting of the
25 exemption or payments in lieu of taxes, or both, is in the best interest of the municipality, and if
26 it so determines, shall give its approval.

27 **SECTION 3. AMENDMENT.** Subdivision b of subsection 15 of section 57-02-08 of the
28 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- 29 b. It is the intent of the legislative assembly that this exemption as applied to a
30 residence shall be strictly construed and interpreted to exempt only a
31 residence which is situated on a farm and which is occupied or used by a

person who is a farmer and that the exemption shall not be applied to property which is occupied or used by a person who is not a farmer. For purposes of this subdivision:

(1) "Farm" means a single tract or contiguous tracts of agricultural land containing a minimum of ten acres [4.05 hectares] and for which the farmer, actually farming the land or engaged in the raising of livestock or other similar operations normally associated with farming and ranching, ~~has not received more than fifty percent of annual net income from nonfarm income, including that of a spouse if married, during each of the three preceding calendar years~~ gross farm income exceeding off-farm income.

(2) "Farmer" means an individual who normally devotes the major portion of time to the activities of producing products of the soil, poultry, livestock, or dairy farming in such products' unmanufactured state and ~~has not received more than fifty percent of annual net income from nonfarm income, including that of a spouse if married, during each of the three preceding calendar years~~ whose gross farm income exceeds off-farm income. "Farmer" includes an individual who is retired because of illness or age and who at the time of retirement owned and occupied as a farmer as defined above the residence in which the person lives and for which the exemption is claimed.

(3) ~~"Net income from farming activities" described in paragraph 2 means taxable income from those activities as computed for income tax purposes pursuant to chapter 57-38 adjusted to include the following:~~

(a) ~~The difference between gross sales price less expenses of sale and the amount reported for sales of agricultural products for which the farmer reported a capital gain.~~

(b) ~~Interest expenses from farming activities which have been deducted in computing taxable income.~~

(4) When exemption is claimed under this subdivision for a residence, the assessor may require that the occupant of the residence who it is

1 claimed is a farmer provide to the assessor for the year or years
2 specified by the assessor a written statement in which it is stated that
3 ~~fifty percent or more of the net income of that occupant was, or was not,~~
4 ~~net income from farming activities; provided, that if that occupant is~~
5 ~~married and both spouses occupy the residence, it shall be stated in the~~
6 ~~written statement whether their net income from farming activities was~~
7 ~~fifty percent or more of their combined net income from all sources~~
8 gross farm income exceeds off-farm income.

9 ~~(5)~~ (4) In addition to any of the provisions of this subsection or any other
10 provision of law, a residence situated on agricultural land is not exempt
11 for the year if it is occupied by an individual engaged in farming who
12 had nonfarm income, including that of a spouse if married, of more than
13 forty thousand dollars during each of the three preceding calendar
14 years. The provisions of this paragraph do not apply to an individual
15 who is retired because of illness or age and who at the time of
16 retirement owned and occupied as a farmer the residence in which the
17 person lives and for which the exemption is claimed.

18 ~~(6)~~ (5) For purposes of this section, "livestock" includes "nontraditional
19 livestock" as defined in section 36-01-00.1.

20 ~~(7)~~ (6) A farmer operating a bed and breakfast facility in the farm residence
21 occupied by that farmer is entitled to the exemption under this section
22 for that residence if the farmer and the residence would qualify for
23 exemption under this section except for the use of the residence as a
24 bed and breakfast facility.

25 **SECTION 4. AMENDMENT.** Section 57-39.2-26.1 of the 1997 Supplement to the
26 North Dakota Century Code is amended and reenacted as follows:

27 **57-39.2-26.1. Allocation of revenues among political subdivisions and coal**
28 **development fund.** Notwithstanding any other provision of law, a portion of sales, use, and
29 motor vehicle excise tax collections, excluding collections allocated under subsection 3, equal
30 to forty-four percent in 1999, forty-eight percent in 2001, fifty-two percent in 2003, fifty-six
31 percent in 2005, and sixty percent in 2007, of an amount determined by multiplying the quotient

1 of one percent divided by the general sales tax rate, that was in effect when the taxes were
2 collected, times the net sales, use, and motor vehicle excise tax collections under chapters
3 57-39.2, 57-40.2, and 57-40.3 must be deposited by the state treasurer in the state aid
4 distribution fund. For the purposes of determining the general fund levy limitation for the
5 taxable year, the dollar amount levied for general fund purpose must be adjusted by subtracting
6 the additional amount to be allocated to the political subdivision. The state tax commissioner
7 shall certify to the state treasurer the portion of sales, use, and motor vehicle excise tax net
8 revenues that must be deposited in the state aid distribution fund as determined under this
9 section. Revenues deposited in the state aid distribution fund are provided as a standing and
10 continuing appropriation and must be allocated as follows:

- 11 1. Fifty-three and seven-tenths percent of the revenues must be allocated to counties
12 in the first month after each quarterly period as provided in this subsection.
 - 13 a. Ten and four-tenths percent of the amount must be allocated among counties
14 with a population of one hundred thousand or more, based upon the
15 proportion each such county's population bears to the total population of all
16 such counties.
 - 17 b. Eighteen percent of the amount must be allocated among counties with a
18 population of forty thousand or more but fewer than one hundred thousand,
19 based upon the proportion each such county's population bears to the total
20 population of all such counties.
 - 21 c. Twelve percent of the amount must be allocated among counties with a
22 population of twenty thousand or more but fewer than forty thousand, based
23 upon the proportion each such county's population bears to the total
24 population of all such counties.
 - 25 d. Fourteen percent of the amount must be allocated among counties with a
26 population of ten thousand or more but fewer than twenty thousand, based
27 upon the proportion each such county's population bears to the total
28 population of all such counties.
 - 29 e. Twenty-three and two-tenths percent of the amount must be allocated among
30 counties with a population of five thousand or more but fewer than ten

thousand, based upon the proportion each such county's population bears to the total population of all such counties.

f. Eighteen and three-tenths percent of the amount must be allocated among counties with a population of two thousand five hundred or more but fewer than five thousand, based upon the proportion each such county's population bears to the total population of all such counties.

g. Four and one-tenth percent of the amount must be allocated among counties with a population of fewer than two thousand five hundred, based upon the proportion each such county's population bears to the total population of all such counties.

A county shall deposit all revenues received under this subsection in the county general fund. Each county shall reserve a portion of its allocation under this subsection for further distribution to, or expenditure on behalf of, townships, rural fire protection districts, rural ambulance districts, soil conservation districts, county recreation service districts, county hospital districts, the Garrison diversion conservancy district, the southwest water authority, and other taxing districts within the county, excluding school districts, cities, and taxing districts within cities. The share of the county allocation under this subsection to be distributed to a township must be equal to the percentage of the county share of state aid distribution fund allocations that township received during calendar year 1996. The governing boards of the county and township may agree to a different distribution.

2. Forty-six and three-tenths percent of the revenues must be allocated to cities in the first month after each quarterly period as provided in this subsection.

a. Fifty-three and nine-tenths percent of the amount must be allocated among cities with a population of twenty thousand or more, based upon the proportion each such city's population bears to the total population of all such cities.

b. Sixteen percent of the amount must be allocated among cities with a population of ten thousand or more but fewer than twenty thousand, based upon the proportion each such city's population bears to the total population of all such cities.

- 1 c. Four and nine-tenths percent of the amount must be allocated among cities
2 with a population of five thousand or more but fewer than ten thousand, based
3 upon the proportion each such city's population bears to the total population
4 of all such cities.
- 5 d. Thirteen and one-tenth percent of the amount must be allocated among cities
6 with a population of one thousand or more but fewer than five thousand,
7 based upon the proportion each such city's population bears to the total
8 population of all such cities.
- 9 e. Six and four-tenths percent of the amount must be allocated among cities with
10 a population of five hundred or more but fewer than one thousand, based
11 upon the proportion each such city's population bears to the total population
12 of all such cities.
- 13 f. Three and five-tenths percent of the amount must be allocated among cities
14 with a population of two hundred or more but fewer than five hundred, based
15 upon the proportion each such city's population bears to the total population
16 of all such cities.
- 17 g. Two and two-tenths percent of the amount must be allocated among cities
18 with a population of fewer than two hundred, based upon the proportion each
19 such city's population bears to the total population of all such cities.

20 A city shall deposit all revenues received under this subsection in the city general
21 fund. Each city shall reserve a portion of its allocation under this subsection for
22 further distribution to, or expenditure on behalf of, park districts and other taxing
23 districts within the city, excluding school districts. The share of the city allocation
24 under this subsection to be distributed to a park district must be equal to the
25 percentage of the city share of state aid distribution fund allocations that park
26 district received during calendar year 1996, up to a maximum of thirty percent. The
27 governing boards of the city and park district may agree to a different distribution.

- 28 3. Notwithstanding any other provision of law, the sales and use tax collections on
29 coal imposed by subsection 3 of section 57-39.2-02.1 and subsection 3 of section
30 57-40.2-02.1 must be deposited in the coal development fund established under
31 section 57-61-10 and distributed under section 57-62-02.