

**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, 15-40.1-08, and  
2 57-15-14 of the North Dakota Century Code, relating to per student payments, the school  
3 district equalization factor, and tax levy limitations in school districts.

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 thirty-five 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~~ thirteen dollars and is the basis for calculating grants-in-aid on a per  
22 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

1                   15-41-25 must be supported in the amount of two hundred twenty dollars,  
2                   which is the basis for calculating grants-in-aid on a per student basis as  
3                   provided in section 15-40.1-07.

4                   c. School districts operating high schools that are not accredited pursuant to the  
5                   accreditation standards adopted by the superintendent of public instruction on  
6                   July 1, 1991, or that become unaccredited in any succeeding school year  
7                   must be supported for the 1991-92 school year or for the first year that they  
8                   become unaccredited in the amount of the educational support per student  
9                   established in subdivision a, which is the basis for calculating grants-in-aid on  
10                  a per student basis as provided in section 15-40.1-07, but those school  
11                  districts are not entitled to the amounts resulting from applying the factors in  
12                  that section. The amount of aid a school district is entitled to under this  
13                  subsection for each high school that is not accredited must be reduced by two  
14                  hundred dollars times the number of students in the school for the second  
15                  school year that the high school is unaccredited, and an additional two  
16                  hundred dollars per student in the unaccredited school for each additional  
17                  year the school remains unaccredited. Any high school that becomes  
18                  accredited is entitled to the per student payments provided for in section  
19                  15-40.1-07 for the entire school year in which the school becomes accredited.

20                  d. School districts operating elementary schools that are not accredited pursuant  
21                  to the accreditation standards adopted by the superintendent of public  
22                  instruction on July 1, 1992, or that become unaccredited in any succeeding  
23                  school year must be supported for the 1992-93 school year or for the first year  
24                  that they become unaccredited in the amount of the educational support per  
25                  student established in subdivision a, which is the basis for calculating  
26                  grants-in-aid on a per student basis as provided in section 15-40.1-08, except  
27                  that the amount of aid that a school district is entitled to under this subsection  
28                  for each elementary school that is unaccredited must be reduced by two  
29                  hundred dollars times the number of students in the school each year that the  
30                  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 section,  
5            the amount of tuition apportionment, foundation aid, special education aid, and  
6            transportation aid for which a school district is eligible must be added together, and  
7            from that total, the following amounts must be subtracted:
- 8            a.    The product of ~~twenty-eight~~ thirty-three mills for the ~~1995-96~~ 1997-98 school  
9            year and ~~thirty-two~~ thirty-four mills for the ~~1996-97~~ 1998-99 school year times  
10           the latest available net assessed and equalized valuation of property of the  
11           school district. ~~For succeeding school years, the number of mills to be used~~  
12           ~~in the computation 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 provided~~  
26           ~~in subdivision a. However, the number of mills used may not fall below~~  
27           ~~thirty-two mills, nor rise above twenty-five percent of the state average~~  
28           ~~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.

- 1           4. No school district may receive foundation payments beyond the October payment
- 2           unless the following reports have been filed with the superintendent of public
- 3           instruction:
- 4           a. Annual average daily membership report.
- 5           b. Annual school district financial report.
- 6           c. The September tenth fall enrollment report.
- 7           d. The personnel report forms for certified and noncertified employees.
- 8           5. No school district may receive the January foundation payment unless the taxable
- 9           valuation and mill levy certifications are on file with the department of public
- 10          instruction by December fifteenth.

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

13           **15-40.1-07. High school per student payments - Amount - Proportionate**  
14 **payments.** Payments must be made each year from state funds to each school district  
15 operating a high school and to each school district contracting to educate high school students  
16 in a federal school, subject to adjustment as provided in section 15-40.1-09, as follows:

- 17           1. For each high school district having under seventy-five students in average daily
- 18           membership in grades nine through twelve, the amount of money resulting from
- 19           multiplying the factor 1.625 adjusted by  ~~fifty~~ seventy-five percent of the difference
- 20           between 1.625 and the factor representing the five-year average cost of education
- 21           per student for this category, as determined by the superintendent of public
- 22           instruction, times the number of high school students in grades nine through twelve
- 23           registered in that school district, times the educational support per student as
- 24           provided in section 15-40.1-06. Beginning July 1, ~~1996~~ 1998, the factor is 1.625
- 25           adjusted by  ~~sixty-five~~ eighty-five percent of the difference between 1.625 and the
- 26           factor representing the five-year average cost of education per student for this
- 27           category, as determined by the superintendent of public instruction.
- 28           2. For each high school district having seventy-five or more, but less than one
- 29           hundred fifty students in average daily membership in grades nine through twelve,
- 30           the amount of money resulting from multiplying the factor 1.335 adjusted by  ~~fifty~~
- 31           seventy-five percent of the difference between 1.335 and the factor representing

1 the five-year average cost of education per student for this category, as determined  
2 by the superintendent of public instruction, times the number of high school  
3 students 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~~ eighty-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 seventy-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~~ eighty-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 seventy-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~~ eighty-five percent of the  
30 difference between 1.14 and the factor representing the five-year average cost of

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

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

5 a. Subsection 1 times the number of students registered in the alternative  
6 education program, times the educational support per student provided in  
7 section 15-40.1-06, if the alternative education program has less than  
8 seventy-five students in average daily membership.

9 b. Subsection 2 times the number of students registered in the alternative  
10 education program, times the educational support per student provided in  
11 section 15-40.1-06, if the alternative education program has seventy-five or  
12 more, but less than one hundred fifty students in average daily membership.

13 c. Subsection 3 times the number of students registered in the alternative  
14 education program, times the educational support per student provided in  
15 section 15-40.1-06, if the alternative education program has one hundred fifty  
16 or more, but less than five hundred fifty students in average daily  
17 membership.

18 d. Subsection 4 times the number of students registered in the alternative  
19 education program times the educational support per student as provided in  
20 section 15-40.1-06 if the alternative education program has five hundred fifty  
21 or more students in average daily membership.

22 Every high school district must receive at least as much in total payments as it would have  
23 received if it had the highest number of students in the next lower category. Payments may not  
24 be made unless four or more units of standard high school work approved by the  
25 superintendent of public instruction are offered during the current year, only certificated  
26 teachers have been employed, and the other standards prescribed by this chapter have been  
27 met. Payments must be made to the high school district in which the student is enrolled for  
28 graduation and units of approved vocational education in accordance with the provisions of  
29 chapter 15-20.1, and other courses approved by the superintendent of public instruction,  
30 earned in another high school district must be included to meet the minimum four required  
31 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~~ seventy-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

- 1 grades one through six must be based on the average daily membership in the  
2 district in grades one through six as provided in subsections 2 through 4. If the  
3 one-room rural school is located in a school district with another school that has  
4 students in grade seven or eight, the weighting factor for the students in grade  
5 seven or eight must be the same as that provided for in subsection 5. Beginning  
6 July 1, ~~1996~~ 1998, the factor is 1.28 adjusted by ~~sixty-five~~ eighty-five percent of the  
7 difference between 1.28 and the five-year average cost of education per student  
8 for this category, as determined by the superintendent of public instruction.
- 9 2. For each elementary school in school districts having under one hundred students  
10 in average daily membership in grades one through six, the amount of money  
11 resulting from multiplying the factor 1.09 adjusted by ~~fifty~~ seventy-five percent of  
12 the difference between 1.09 and the factor representing the five-year average cost  
13 of education per student for this category, as determined by the superintendent of  
14 public instruction, times the number of students in that school in grades one  
15 through six in average daily membership in each classroom or for each teacher,  
16 times the educational support per student provided in section 15-40.1-06, except  
17 that no payment may be made for more than twenty-five students in average daily  
18 membership in each classroom or for each teacher. Beginning July 1, ~~1996~~ 1998,  
19 the factor is 1.09 adjusted by ~~sixty-five~~ eighty-five percent of the difference  
20 between 1.09 and the five-year average cost of education per student for this  
21 category, as determined by the superintendent of public instruction.
- 22 3. For each elementary school in school districts having one hundred or more  
23 students in average daily membership in grades one through six, and provided the  
24 districts in which such schools are located have an average daily membership of  
25 less than one thousand elementary students in grades one through six, the amount  
26 of money resulting from multiplying the factor .905 adjusted by ~~fifty~~ seventy-five  
27 percent of the difference between .905 and the factor representing the five-year  
28 average cost of education per student for this category, as determined by the  
29 superintendent of public instruction, times the number of students in that school in  
30 grades one through six in average daily membership in each classroom or for each  
31 teacher times the educational support per student provided in section 15-40.1-06,



- 1           except that no payment may be made for more than thirty students in average daily  
2           membership in each classroom or for each teacher. Beginning July 1, ~~1996~~ 1998,  
3           the factor is .905 adjusted by ~~sixty-five~~ eighty-five percent of the difference  
4           between .905 and the five-year average cost of education per student for this  
5           category, as determined by the superintendent of public instruction.
- 6           4. For each elementary school in school districts having an average daily  
7           membership of one thousand or more elementary students in grades one through  
8           six, the amount of money resulting from multiplying the factor .95 adjusted by ~~fifty~~  
9           seventy-five percent of the difference between .95 and the factor representing the  
10          five-year average cost of education per student for this category, as determined by  
11          the superintendent of public instruction, times the number of students in that school  
12          in grades one through six in average daily membership in each classroom or for  
13          each teacher times the educational support per student provided in section  
14          15-40.1-06, except that no payment may be made for more than thirty students in  
15          average daily membership in each classroom or for each teacher. Beginning  
16          July 1, ~~1996~~ 1998, the factor is .95 adjusted by ~~sixty-five~~ eighty-five percent of the  
17          difference between .95 and the five-year average cost of education per student for  
18          this category, as determined by the superintendent of public instruction.
- 19          5. For each of the above classes of elementary schools, except for one-room rural  
20          schools that are not located in a district with another school having students in  
21          grade seven or eight, there must be paid to each school the amount of money  
22          resulting from multiplying the factor 1.01 adjusted by ~~fifty~~ seventy-five percent of  
23          the difference between 1.01 and the factor representing the five-year average cost  
24          of education per student for this category, as determined by the superintendent of  
25          public instruction, times the number of students in that school in grades seven and  
26          eight in average daily membership in each classroom or for each teacher times the  
27          educational support per student provided in section 15-40.1-06, except that no  
28          payment may be made for more than thirty students in average daily membership  
29          in each classroom or for each teacher. Beginning July 1, ~~1996~~ 1998, the factor is  
30          1.01 adjusted by ~~sixty-five~~ eighty-five percent of the difference between 1.01 and

- 1 the five-year average cost of education per student for this category, as determined  
2 by the superintendent of public instruction.
- 3 6. For each elementary school having students under the compulsory age for school  
4 attendance, but not less than three years of age, in a special education program  
5 approved by the director of special education, the amount of money resulting from  
6 multiplying the factor 1.01 adjusted by ~~fifty~~ seventy-five percent of the difference  
7 between 1.01 and the factor representing the five-year average cost of education  
8 per student for this category, as determined by the superintendent of public  
9 instruction, times the number of special education students in that school under the  
10 compulsory age for school attendance in average daily membership in each  
11 classroom or for each teacher times the educational support per student provided  
12 in section 15-40.1-06. Beginning July 1, ~~1996~~ 1998, the factor is 1.01 adjusted by  
13 ~~sixty-five~~ eighty-five percent of the difference between 1.01 and the five-year  
14 average cost of education per student for this category, as determined by the  
15 superintendent of public instruction.
- 16 7. For each elementary school providing a kindergarten that is established according  
17 to provisions of section 15-45-01, the amount of money resulting from multiplying  
18 the factor .50 adjusted by ~~fifty~~ seventy-five percent of the difference between .50  
19 and the factor representing the five-year average cost of education per student for  
20 this category, as determined by the superintendent of public instruction, times the  
21 number of students in that school in average daily membership in each classroom  
22 or for each teacher times the educational support per student, as provided under  
23 section 15-40.1-06, except that no payment may be made for more than  
24 twenty-five students in average daily membership in each classroom or for each  
25 teacher. The full per student payment may be made only to those kindergarten  
26 programs providing the equivalent of ninety full days of classroom instruction  
27 during any twelve-month period. Programs providing shorter periods of instruction  
28 during the same time period must receive a proportionately smaller per student  
29 payment. Beginning July 1, ~~1996~~ 1998, the factor is .50 adjusted by ~~sixty-five~~  
30 eighty-five percent of the difference between .50 and the five-year average cost of

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

10 **57-15-14. Tax levy limitations in school districts.** The aggregate amount levied  
11 each year for the purposes listed in section 57-15-14.2 by any school district, except the Fargo  
12 school district, may not exceed the amount in dollars which the school district levied for the prior  
13 school year plus eighteen percent up to a general fund levy of one hundred ~~eighty-five~~  
14 ninety-two mills on the dollar of the taxable valuation of the district, except that:

- 15 1. In any school district having a total population in excess of four thousand according  
16 to the last federal decennial census:
  - 17 a. There may be levied any specific number of mills that upon resolution of the  
18 school board has been submitted to and approved by a majority of the  
19 qualified electors voting upon the question at any regular or special school  
20 district election.
  - 21 b. There is no limitation upon the taxes which may be levied if upon resolution of  
22 the school board of any such district the removal of the mill levy limitation has  
23 been submitted to and approved by a majority of the qualified electors voting  
24 at any regular or special election upon such question.
- 25 2. In any school district having a total population of less than four thousand, there  
26 may be levied any specific number of mills that upon resolution of the school board  
27 has been approved by fifty-five percent of the qualified electors voting upon the  
28 question at any regular or special school election.
- 29 3. In any school district in which the total assessed valuation of property has  
30 increased twenty percent or more over the prior year and in which as a result of  
31 that increase the school district is entitled to less in state foundation aid payments

1 provided in sections 15-40.1-06 through 15-40.1-08 because of the deduction  
2 required in subsection 3 of section 15-40.1-06, there may be levied any specific  
3 number of mills more in dollars than was levied in the prior year up to a general  
4 fund levy of one hundred ~~eighty-five~~ ninety-two mills on the dollar of the taxable  
5 valuation of the school district. The additional levy authorized by this subsection  
6 may be levied for not more than two years because of any twenty percent or  
7 greater annual increase in assessed valuation. The total amount of revenue  
8 generated in excess of the eighteen percent increase which is otherwise permitted  
9 by this section may not exceed the amount of state aid payments lost as a result of  
10 applying the deduction provided in subsection 3 of section 15-40.1-06 to the  
11 increased assessed valuation of the school district in a one-year period.

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