

Fifty-fifth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1050

Introduced by

Legislative Council

(Education Finance Committee)

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; and to provide a statement
4 of intent regarding foundation aid dollars.

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

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

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

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

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

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

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

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

15 (1) The superintendent of public instruction shall determine the percentage
16 resulting from dividing the number of mills used in the computation the
17 previous year by the state average school district general fund mill levy.

18 (2) The superintendent of public instruction shall determine the amount of
19 foundation aid estimated to be distributed during the current year and
20 subtract from that the amount of foundation aid that was distributed
21 during the prior year, and divide the result by the amount of foundation
22 aid distributed during the prior year.

23 (3) The superintendent of public instruction shall multiply the quotient
24 determined under paragraph 2 by forty percent and shall add this
25 product to the percentage obtained in paragraph 1. This sum ~~shall~~
26 must be multiplied times the state average school district general fund
27 mill levy to determine the number of mills to be used in the computation
28 provided in subdivision a. However, the number of mills used may not
29 fall below ~~thirty-two~~ twenty-three and eighty hundredths mills, nor rise
30 above twenty-five percent of the state average school district general
31 fund mill levy.

- 1 b. An amount determined by multiplying .1484 percent during the first year of the
2 biennium and .1583 percent during the second year of the biennium, times
3 the total adjusted gross income of residents of the school district for the most
4 recent taxable year for which the information is available. The tax
5 commissioner shall certify the information required by this subdivision to the
6 superintendent of public instruction before August first of each year.
- 7 c. The amount that the unobligated general fund balance of a school district on
8 the preceding June thirtieth is in excess of three-fourths of the actual
9 expenditures, plus an additional twenty thousand dollars.
- 10 4. No school district may receive foundation payments beyond the October payment
11 unless the following reports have been filed with the superintendent of public
12 instruction:
- 13 a. Annual average daily membership report.
14 b. Annual school district financial report.
15 c. The September tenth fall enrollment report.
16 d. The personnel report forms for certified and noncertified employees.
- 17 5. No school district may receive the January foundation payment unless the taxable
18 valuation and mill levy certifications are on file with the department of public
19 instruction by December fifteenth.

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

22 **15-40.1-07. High school per student payments - Amount - Proportionate**
23 **payments.** Payments must be made each year from state funds to each school district
24 operating a high school and to each school district contracting to educate high school students
25 in a federal school, subject to adjustment as provided in section 15-40.1-09, as follows:

- 26 1. For each high school district having under seventy-five students in average daily
27 membership in grades nine through twelve, the amount of money resulting from
28 multiplying the factor 1.625 adjusted by ~~fifty~~ eighty percent of the difference
29 between 1.625 and the factor representing the five-year average cost of education
30 per student for this category, as determined by the superintendent of public
31 instruction, times the number of high school students in grades nine through twelve

- 1 registered in that school district, times the educational support per student as
2 provided in section 15-40.1-06. Beginning July 1, ~~1996~~ 1998, the factor is ~~4.625~~
3 ~~adjusted by sixty five percent of the difference between 4.625 and the factor~~
4 ~~representing that which represents~~ the five-year average cost of education per
5 student for this category, as determined by the superintendent of public instruction.
- 6 2. For each high school district having seventy-five or more, but less than one
7 hundred fifty students in average daily membership in grades nine through twelve,
8 the amount of money resulting from multiplying the factor 1.335 adjusted by ~~fifty~~
9 eighty percent of the difference between 1.335 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 high school students
12 in grades nine through twelve registered in that school district, times the
13 educational support per student provided in section 15-40.1-06. Beginning July 1,
14 ~~1996~~ 1998, the factor is ~~1.335 adjusted by sixty five percent of the difference~~
15 ~~between 1.335 and the factor representing that which represents~~ the five-year
16 average cost of education per student for this category, as determined by the
17 superintendent of public instruction.
- 18 3. For each high school district having one hundred fifty or more, but less than five
19 hundred fifty students in average daily membership in grades nine through twelve,
20 the amount of money resulting from multiplying the factor 1.24 adjusted by ~~fifty~~
21 eighty percent of the difference between 1.24 and the factor representing the
22 five-year average cost of education per student for this category, as determined by
23 the superintendent of public instruction, times the number of high school students
24 in grades nine through twelve registered in that school district, times the
25 educational support per student provided in section 15-40.1-06. Beginning July 1,
26 ~~1996~~ 1998, the factor is ~~1.24 adjusted by sixty five percent of the difference~~
27 ~~between 1.24 and the factor representing that which represents~~ the five-year
28 average cost of education per student for this category, as determined by the
29 superintendent of public instruction.
- 30 4. For each high school district having a total high school enrollment of five hundred
31 fifty or more students in average daily membership in grades nine through twelve,

1 the amount of money resulting from multiplying the factor 1.14 adjusted by ~~fifty~~
2 eighty percent of the difference between 1.14 and the factor representing the
3 five-year average cost of education per student for this category, as determined by
4 the superintendent of public instruction, times the number of high school students
5 in grades nine through twelve registered in that school district, times the
6 educational support per student provided in section 15-40.1-06. Beginning July 1,
7 ~~1996~~ 1998, the factor is ~~1.14 adjusted by sixty five percent of the difference~~
8 ~~between 1.14 and the factor representing~~ that which represents the five-year
9 average cost of education per student for this category, as determined by the
10 superintendent of public instruction.

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

- 13 a. Subsection 1 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 less than
16 seventy-five students in average daily membership.
- 17 b. Subsection 2 times the number of students registered in the alternative
18 education program, times the educational support per student provided in
19 section 15-40.1-06, if the alternative education program has seventy-five or
20 more, but less than one hundred fifty students in average daily membership.
- 21 c. Subsection 3 times the number of students registered in the alternative
22 education program, times the educational support per student provided in
23 section 15-40.1-06, if the alternative education program has one hundred fifty
24 or more, but less than five hundred fifty students in average daily
25 membership.
- 26 d. Subsection 4 times the number of students registered in the alternative
27 education program times the educational support per student as provided in
28 section 15-40.1-06 if the alternative education program has five hundred fifty
29 or more students in average daily membership.

30 Every high school district must receive at least as much in total payments as it would have
31 received if it had the highest number of students in the next lower category. Payments may not

1 be made unless four or more units of standard high school work approved by the
2 superintendent of public instruction are offered during the current year, only certificated
3 teachers have been employed, and the other standards prescribed by this chapter have been
4 met. Payments must be made to the high school district in which the student is enrolled for
5 graduation and units of approved vocational education in accordance with the provisions of
6 chapter 15-20.1, and other courses approved by the superintendent of public instruction,
7 earned in another high school district must be included to meet the minimum four required
8 units. In the case of students enrolled in nonpublic schools for graduation or students enrolled
9 in less than four units of standard high school work who are in their fourth year of high school
10 coursework and who are enrolled in approved alternative high school curriculum programs,
11 proportionate payments must be made to the public school district in which the student is
12 enrolled for specific courses. School districts offering high school summer school programs are
13 eligible for proportionate payments provided each course offered satisfies requirements for
14 graduation, comprises at least as many clock hours as courses offered during the regular
15 school term, and complies with rules adopted by the superintendent of public instruction. The
16 superintendent may adopt rules regarding eligibility for school districts to receive proportionate
17 payments for summer education programs. The proportionate payment made under this
18 section during the biennium for high school summer school programs may not exceed one and
19 one-half percent of the total amount appropriated by the legislative assembly for foundation aid
20 and transportation aid during the biennium.

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

23 **15-40.1-08. Elementary per student payments - Amount.** Payments must be made
24 from state funds to each school district operating an elementary school and to each school
25 district contracting to educate elementary students in a federal school, employing teachers
26 holding valid certificates or permits in accordance with section 15-47-46 and chapter 15-36,
27 adjusted as provided in section 15-40.1-09, as follows:

28 1. For each one-room rural school, the amount of money resulting from multiplying
29 the factor 1.28 adjusted by ~~fifty~~ eighty percent of the difference between 1.28 and
30 the factor representing the five-year average cost of education per student for this
31 category, as determined by the superintendent of public instruction, times the

1 number of students in that school in grades one through eight in average daily
2 membership, up to a maximum of sixteen students, times the educational support
3 per student provided in section 15-40.1-06. There must be paid .9 times each
4 additional student in its school in grades one through eight in average daily
5 membership times the educational support per student provided in section
6 15-40.1-06, except that no payment may be made for more than twenty students in
7 average daily membership. If the one-room rural school is located in a school
8 district with another elementary school, the weighting factor for the students in
9 grades one through six must be based on the average daily membership in the
10 district in grades one through six as provided in subsections 2 through 4. If the
11 one-room rural school is located in a school district with another school that has
12 students in grade seven or eight, the weighting factor for the students in grade
13 seven or eight must be the same as that provided for in subsection 5. Beginning
14 July 1, ~~1996~~ 1998, the factor is ~~1.28 adjusted by sixty five percent of the difference~~
15 ~~between 1.28 and~~ that which represents the five-year average cost of education
16 per student for this category, as determined by the superintendent of public
17 instruction.

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

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

1 resulting from multiplying the factor 1.01 adjusted by ~~fifty~~ eighty percent of the
2 difference between 1.01 and the factor representing the five-year average cost of
3 education per student for this category, as determined by the superintendent of
4 public instruction, times the number of students in that school in grades seven and
5 eight in average daily membership in each classroom or for each teacher times the
6 educational support per student provided in section 15-40.1-06, except that no
7 payment may be made for more than thirty students in average daily membership
8 in each classroom or for each teacher. Beginning July 1, ~~1996~~ 1998, the factor is
9 ~~1.01 adjusted by sixty five percent of the difference between 1.01 and that which~~
10 represents the five-year average cost of education per student for this category, as
11 determined by the superintendent of public instruction.

12 6. For each elementary school having students under the compulsory age for school
13 attendance, but not less than three years of age, in a special education program
14 approved by the director of special education, the amount of money resulting from
15 multiplying the factor 1.01 adjusted by ~~fifty~~ eighty percent of the difference
16 between 1.01 and the factor representing the five-year average cost of education
17 per student for this category, as determined by the superintendent of public
18 instruction, times the number of special education students in that school under the
19 compulsory age for school attendance in average daily membership in each
20 classroom or for each teacher times the educational support per student provided
21 in section 15-40.1-06. Beginning July 1, ~~1996~~ 1998, the factor is ~~1.01 adjusted by~~
22 ~~sixty five percent of the difference between 1.01 and that which represents~~ the
23 five-year average cost of education per student for this category, as determined by
24 the superintendent of public instruction.

25 7. For each elementary school providing a kindergarten that is established according
26 to provisions of section 15-45-01, the amount of money resulting from multiplying
27 the factor .50 adjusted by ~~fifty~~ eighty percent of the difference between .50 and the
28 factor representing the five-year average cost of education per student for this
29 category, as determined by the superintendent of public instruction, times the
30 number of students in that school in average daily membership in each classroom
31 or for each teacher times the educational support per student, as provided under

1 section 15-40.1-06, except that no payment may be made for more than
2 twenty-five students in average daily membership in each classroom or for each
3 teacher. The full per student payment may be made only to those kindergarten
4 programs providing the equivalent of ninety full days of classroom instruction
5 during any twelve-month period. Programs providing shorter periods of instruction
6 during the same time period must receive a proportionately smaller per student
7 payment. Beginning July 1, ~~1996~~ 1998, the factor is ~~.50 adjusted by sixty-five~~
8 ~~percent of the difference between .50 and~~ that which represents the five-year
9 average cost of education per student for this category, as determined by the
10 superintendent of public instruction.

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

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

16 **SECTION 4. AMENDMENT.** Section 57-15-14 of the 1995 Supplement to the North
17 Dakota Century Code is amended and reenacted as follows:

18 **57-15-14. Tax levy limitations in school districts.** The aggregate amount levied
19 each year for the purposes listed in section 57-15-14.2 by any school district, except the Fargo
20 school district, may not exceed the amount in dollars which the school district levied for the
21 prior school year plus eighteen percent up to a general fund levy of one hundred ~~eighty-five~~
22 ninety-two mills on the dollar of the taxable valuation of the district, except that:

- 23 1. In any school district having a total population in excess of four thousand
24 according to the last federal decennial census:
- 25 a. There may be levied any specific number of mills that upon resolution of the
26 school board has been submitted to and approved by a majority of the
27 qualified electors voting upon the question at any regular or special school
28 district election.
- 29 b. There is no limitation upon the taxes which may be levied if upon resolution of
30 the school board of any such district the removal of the mill levy limitation has

1 been submitted to and approved by a majority of the qualified electors voting
2 at any regular or special election upon such question.

3 2. In any school district having a total population of less than four thousand, there
4 may be levied any specific number of mills that upon resolution of the school board
5 has been approved by fifty-five percent of the qualified electors voting upon the
6 question at any regular or special school election.

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

21 The question of authorizing or discontinuing such specific number of mills authority or unlimited
22 taxing authority in any school district must be submitted to the qualified electors at the next
23 regular election upon resolution of the school board or upon the filing with the school board of a
24 petition containing the signatures of qualified electors of the district equal in number to twenty
25 percent of the number of persons enumerated in the school census for that district for the most
26 recent year such census was taken, unless such census is greater than four thousand in which
27 case only fifteen percent of the number of persons enumerated in the school census is
28 required. However, not fewer than twenty-five signatures are required unless the district has
29 fewer than twenty-five qualified electors, in which case the petition must be signed by not less
30 than twenty-five percent of the qualified electors of the district. In those districts with fewer than
31 twenty-five qualified electors, the number of qualified electors in the district must be determined

1 by the county superintendent for such county in which such school is located. However, the
2 approval of discontinuing either such authority does not affect the tax levy in the calendar year
3 in which the election is held. The election must be held in the same manner and subject to the
4 same conditions as provided in this section for the first election upon the question of authorizing
5 the mill levy.

6 **SECTION 5. PER STUDENT PAYMENTS - HOLD HARMLESS.** Notwithstanding any
7 provision of this Act, no school district may receive fewer foundation aid dollars than the district
8 received for the 1996-97 school year.