

Fifty-ninth  
Legislative Assembly  
of North Dakota

## ENGROSSED SENATE BILL NO. 2364

Introduced by

Senators Flakoll, Freborg, Holmberg

Representatives Hawken, D. Johnson, R. Kelsch

1 A BILL for an Act to amend and reenact section 15.1-27-10 of the North Dakota Century Code,  
2 relating to per student special education payments; and to provide a method for distributing  
3 special education payments.

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

5 **SECTION 1. AMENDMENT.** Section 15.1-27-10 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **15.1-27-10. Per student payments - Special education.**

- 8 1. Except as provided in subsection 2, each biennium the superintendent of public  
9 instruction shall distribute 68.95 percent of any moneys appropriated by the  
10 legislative assembly for ~~per student~~ special education payments ~~to each~~ among  
11 school ~~district~~ districts in the state on the basis of students in average daily  
12 membership. The superintendent of public instruction shall forward the payments,  
13 as calculated under section 15.1-27-05, to eligible school districts in the same  
14 manner and at the same time that the superintendent distributes state aid  
15 payments. For purposes of this section, "special education" means the provision  
16 of special services to students who have special needs, including students who are  
17 gifted and talented. Expenditures under this section may not conflict with  
18 nonsupplanting and maintenance of effort provisions under the Individuals With  
19 Disabilities Education Act, 20 United States Code 1400 et seq.
- 20 2. Upon the written request of a school district, the superintendent of public  
21 instruction may forward all or a portion of the moneys to which the school district is  
22 entitled under this section directly to the special education unit of which the school  
23 district is a member.

- 1           3.    The superintendent of public instruction may withhold state special education  
2                   funds due a school district if, in response to a complaint, the superintendent finds  
3                   that the district is not providing a free appropriate public education to a student as  
4                   required by law. Any withholding under this subsection may not exceed an amount  
5                   equal to the cost of meeting the affected student's needs.

6           **SECTION 2. SPECIAL EDUCATION PAYMENTS - DISTRIBUTION DURING 2005-07**  
7 **BIENNIUM.**

- 8           1.    The superintendent of public instruction shall distribute 30.2 percent of any  
9                   moneys appropriated in the grants - special education line item in House Bill  
10                  No. 1013 to school districts or special education units as reimbursement for excess  
11                  costs incurred in contracts for students with disabilities during the biennium  
12                  beginning July 1, 2005, and ending June 30, 2007.
- 13          2.    The superintendent of public instruction shall distribute 0.85 percent of any  
14                   moneys appropriated in the grants - special education line item in House Bill  
15                  No. 1013 to school districts or special education units as reimbursement for costs  
16                  incurred in providing programs to gifted and talented students during the biennium  
17                  beginning July 1, 2005, and ending June 30, 2007, upon the submission of an  
18                  application that is approved by the superintendent. The superintendent of public  
19                  instruction shall encourage the provision of gifted and talented programs through  
20                  cooperative efforts by school districts and special education units.
- 21          3.    If any moneys remain after the superintendent of public instruction completes the  
22                   requirements of section 15.1-27-10 and subsections 1 through 3 of this section, the  
23                   superintendent shall distribute the remaining moneys as additional per student  
24                   special education payments in the same manner as provided in section  
25                   15.1-27-10.