

SENATE BILL NO. 2279

Introduced by

Senators Bakke, Anderson, Heckaman

Representatives Delmore, Potter, Wolf

1 A BILL for an Act to create and enact a new section to chapter 15.1-27 of the North Dakota
2 Century Code, relating to the reimbursement of school districts for special education; to amend
3 and reenact sections 15.1-27-32, 15.1-31-04, 15.1-32-14, 15.1-32-15, and 15.1-32-19 of the
4 North Dakota Century Code, relating to special education payments to school districts; and to
5 repeal sections 15.1-27-10 and 15.1-32-18 of the North Dakota Century Code, relating to per
6 student special education payments and liability for special education costs.

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

8 **SECTION 1.** A new section to chapter 15.1-27 of the North Dakota Century Code is
9 created and enacted as follows:

10 **Special education - Reimbursement of school districts.** Each school district is
11 responsible for the costs of providing special education and related services to all eligible
12 students residing in the district. Each school district shall, at the time and in the manner
13 determined by the superintendent of public instruction, submit a claim for reimbursement. The
14 claim must account for the actual costs incurred by a school district in providing special
15 education and related services, less any moneys received by the district on behalf of the
16 student. The superintendent of public instruction shall reimburse the school district an amount
17 equal to thirty-five percent of the remaining amount. Beginning July 1, 2008, the superintendent
18 of public instruction shall reimburse the school district an amount equal to forty percent of the
19 remaining amount.

20 **SECTION 2. AMENDMENT.** Section 15.1-27-32 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **15.1-27-32. School district closure - Distribution of per student special education**
23 **payments.**

- 1 1. If a school district ceases to exist, the superintendent of public instruction shall
2 calculate the amount of ~~per student~~ special education payments to which the
3 former school district would have been entitled under section ~~15.1-27-10~~ 1 of this
4 Act for the provision of special education services during its final year of operation
5 and shall pay a percentage of the total amount to each North Dakota school district
6 that enrolls students who attended the former school district during the prior school
7 year. Each of the school districts eligible for a payment under this section is
8 entitled to receive that percentage of the total amount which is the same as the
9 percentage that the number of the district's students who attended the former
10 school district during the prior school year bears to the total number of students
11 who attended the former school district during the prior school year.
- 12 2. The superintendent of public instruction shall make payments under this section in
13 the manner and at the time provided for other state payments in section
14 15.1-27-01.

15 **SECTION 3. AMENDMENT.** Section 15.1-31-04 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **15.1-31-04. Open enrollment - Students with disabilities - Additional costs.** If an
18 application under this chapter is approved for a student with a disability, the board of the
19 student's school district of residence shall pay to the admitting district the costs incurred by the
20 admitting district in providing special education and related services to the student ~~up to a~~
21 ~~maximum each school year of two and one half times the state average per student elementary~~
22 ~~or high school cost, depending on the student's enrollment level, plus twenty percent of all~~
23 ~~remaining costs.~~ The student's school district of residence shall submit to the superintendent of
24 public instruction ~~shall reimburse the admitting district eighty percent of the remainder of the~~
25 ~~cost of educating the student with disabilities within the limits of legislative appropriations for~~
26 ~~that purpose a claim for reimbursement, as provided for in section 1 of this Act.~~

27 **SECTION 4. AMENDMENT.** Section 15.1-32-14 of the North Dakota Century Code is
28 amended and reenacted as follows:

29 **15.1-32-14. Special education per student payments.**

- 30 1. ~~If a student with disabilities receives special education services, the superintendent~~
31 ~~of public instruction shall forward any per student payments, payable on behalf of~~

- 1 ~~that student, directly to the school district in which the student receives such~~
2 ~~services.~~
- 3 ~~2. If a student with disabilities attends a special education summer program required~~
4 ~~by the student's individualized education program or services plan and approved~~
5 ~~by the superintendent of public instruction, the superintendent of public instruction~~
6 ~~shall forward any additional prorated per student payments, payable on behalf of~~
7 ~~the student, directly to the school district in which the student receives such~~
8 ~~services.~~
- 9 ~~3. If a student who is enrolled in a nonpublic school receives special education~~
10 ~~services in a public school, the superintendent of public instruction shall forward a~~
11 ~~proportionate per student payment to the school district in which the student~~
12 ~~receives the services.~~
- 13 4. a. If in the opinion of an individualized education program team or a services
14 plan team a student is unable to attend a public school in the special
15 education unit to which the student's school district of residence belongs, the
16 student's school district of residence shall contract with another public school
17 district that:
- 18 (1) a. Does not belong to the same special education unit;
19 (2) b. Is located in this state;
20 (3) c. Is willing to admit the student; and
21 (4) d. Is able to provide appropriate services to the student.
- 22 b. 2. The superintendent of public instruction shall approve in advance the terms of the
23 contract and the services to be provided by the admitting school district.
- 24 e. 3. The contract must provide that the student's school district of residence agrees to
25 pay to the admitting district in which the student receives services, as part of the
26 ~~cost of~~ the actual costs incurred by the admitting district in educating the student
27 for the school year, ~~an amount equal to two and one-half times the state average~~
28 ~~per student elementary or high school cost, depending upon the student's level of~~
29 ~~enrollment, plus twenty percent of all remaining costs. The amount paid may not~~
30 ~~exceed the actual per student cost incurred by the admitting school, less any per~~
31 ~~student payment received on behalf of the student under this section.~~

- 1 ~~e~~. 4. The liability of the student's school district of residence must be reduced
2 proportionately if the student attends the admitting school district for less than an
3 entire school year.
- 4 ~~e~~. 5. Upon being notified by the district in which the student receives services that ~~tuition~~
5 payments provided for by this section are due and unpaid, the superintendent of
6 public instruction, after verification, shall withhold all state aid payments to which
7 the student's school district of residence is entitled until the ~~tuition~~ amount due has
8 been paid.
- 9 ~~f~~. 6. The student's school district of residence shall submit to the superintendent of
10 public instruction ~~shall provide to the school district in which the student receives~~
11 ~~services, within the limits of legislative appropriations, an amount equal to eighty~~
12 ~~percent of the remainder of the actual cost of educating the student with disabilities~~
13 ~~not covered by other payments or credits~~ a claim for reimbursement, as provided
14 for in section 1 of this Act.

15 **SECTION 5. AMENDMENT.** Section 15.1-32-15 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **15.1-32-15. Student with disabilities - Attendance at private institution or**
18 **out-of-state public school.**

- 19 1. If in the opinion of an individualized education program team or an education
20 services team a student is unable to attend a public school in the student's school
21 district of residence because of a physical disability, a mental disability, or a
22 learning disability, and if no public school in the state will accept the student and
23 provide the necessary services, the student's school district of residence shall
24 contract with:
- 25 a. A private, accredited, nonsectarian, nonprofit institution that is located within
26 or outside of this state and which has the proper facilities for the education of
27 the student; or
- 28 b. A public school located outside of this state that has proper facilities for the
29 education of the student.
- 30 2. The superintendent of public instruction shall approve in advance the terms of the
31 contract and the services to be provided by the admitting institution or school.

- 1 3. The contract must provide that the student's school district of residence shall pay
2 to the admitting institution or school, ~~as part of the cost of educating the student,~~
3 ~~an amount for the school year equal to two and one half times the state average~~
4 ~~per student elementary or high school cost, depending upon the student's level of~~
5 ~~enrollment, plus twenty percent of all remaining costs~~ the actual costs incurred by
6 the admitting institution or school in educating the student for the school year.
- 7 4. ~~The amount paid may not exceed the actual per student cost incurred by the~~
8 ~~institution or school.~~
- 9 5. The student's school district of residence shall submit to the superintendent of
10 public instruction ~~shall provide to the student's school district of residence, within~~
11 ~~the limits of legislative appropriations, an amount equal to eighty percent of the~~
12 ~~remainder of the actual cost of educating the student with disabilities not covered~~
13 ~~by other payments or credits~~ a claim for reimbursement, as provided for in
14 section 1 of this Act.
- 15 6. 5. The school district of residence is entitled to the per student payment for a student
16 who receives services under this section.

17 **SECTION 6. AMENDMENT.** Section 15.1-32-19 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **15.1-32-19. Boarding care costs ~~–Reimbursement of school district.~~** The
20 superintendent of public instruction, ~~within the limits of legislative appropriation, shall reimburse~~
21 ~~a student's school district of residence an amount equal to eighty percent of~~ shall pay the room
22 and board costs ~~paid~~ for a student with disabilities who is placed in a facility located outside of
23 the student's school district of residence in order to receive special education services not
24 available within the student's school district of residence. ~~The student's school district of~~
25 ~~residence is liable for any room and board costs in excess of those reimbursed as provided in~~
26 ~~this section.~~ The placement of a student with disabilities in a public or private facility will be
27 made by a school district. The placement of a student with disabilities in congregate care will
28 be made in a facility designated by the department of human services.

29 **SECTION 7. REPEAL.** Sections 15.1-27-10 and 15.1-32-18 of the North Dakota
30 Century Code are repealed.