

Seventieth
Legislative Assembly
of North Dakota

BILL NO.

Introduced by

Representative Timmons

1 A BILL for an Act to create and enact two new sections to chapter 54-10 of the North Dakota
2 Century Code, relating to the withholding of distributions and payments to cities, counties, and
3 school districts for recurring audit findings and the creation of the audit compliance fund; and to
4 provide a continuing appropriation.

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

6 **SECTION 1.** A new section to chapter 54-10 of the North Dakota Century Code is created
7 and enacted as follows:

8 **City, county, or school district - Recurring audit findings - Notice - Withholding of**
9 **distributions and payments - Release upon compliance.**

- 10 1. If the state auditor, in the course of an audit of a city, county, or school district under
11 section 54-10-13 or 54-10-15 or a review of an audit report of a city, county, or school
12 district under subsection 4 of section 54-10-14, determines that an audit finding
13 identified in the most recent audit report of the city, county, or school district also was
14 identified in the immediately preceding audit report of that city, county, or school
15 district, the state auditor shall certify the recurring audit finding to the state treasurer
16 and provide written notice to the city, county, or school district which must:
- 17 a. Identify the recurring audit finding;
18 b. Specify the actions necessary to resolve the finding; and
19 c. State the recurring audit finding has been referred to the state treasurer, who
20 shall determine an amount to be withheld under this section.
- 21 2. Upon certification from the state auditor, the state treasurer shall withhold all or a
22 portion of the following distributions or payments otherwise payable to the city, county,
23 or school district:

a. For a county or city, allocations from the state aid distribution fund under section 57-39.2-26.1, excluding amounts required to be distributed to another political subdivision.

b. For a school district, the amount of integrated formula payments due to a school district under section 15.1-27-04.1.

The withholding, as determined by the state treasurer, may not exceed five percent of the final budget of the city, county, or school district as adopted for the most recent fiscal year included in the most recent audit report of the city, county, or school district.

3. The state treasurer shall withhold from distributions or payments to the city, county, or school district until the aggregate amount withheld during the fiscal year equals the annual amount determined under subsection 2. The withholding must continue each fiscal year until the state auditor certifies to the state treasurer under subsection 6 that the city, county, or school district is in compliance.

4. To administer withholding under this section, the superintendent of public instruction shall certify to the state treasurer the amount of integrated formula payments due to an affected school district. The state treasurer shall coordinate with the superintendent of public instruction to provide for the withholding and transfer of funds to the audit compliance fund.

5. The state treasurer shall deposit any amount withheld under this section into the audit compliance fund.

6. If a subsequent audit report does not identify the audit finding which resulted in the withholding under this section, the state auditor shall certify to the state treasurer that the city, county, or school district is in compliance. Upon receipt of the certification, the state treasurer shall:

a. Cease withholding funding from the city, county, or school district; and

b. Pay to the city, county, or school district from the audit compliance fund an amount equal to the total amount previously withheld from the city, county, or school district under this section.

SECTION 2. A new section to chapter 54-10 of the North Dakota Century Code is created and enacted as follows:

1 **Audit compliance fund - Continuing appropriation.**

2 There is created in the state treasury the audit compliance fund. The fund consists of
3 amounts withheld and deposited under section 1 of this Act. All moneys in the fund are
4 appropriated to the state treasurer on a continuing basis for the purpose of making payments to
5 cities, counties, and school districts upon certification of compliance as provided under
6 section 1 of this Act.