

**Fifty-sixth Legislative Assembly, State of North Dakota, begun in the
Capitol in the City of Bismarck, on Tuesday, the fifth day of January,
one thousand nine hundred and ninety-nine**

SENATE BILL NO. 2013
(Appropriations Committee)
(At the request of the Governor)

AN ACT to provide an appropriation for defraying the expenses of the department of public instruction, the school for the deaf, the school for the blind, and the state library; to provide for a legislative council study; to amend and reenact sections 15-21-02 and 15-21-03 of the North Dakota Century Code or in the alternative to amend and reenact sections 15.1-02-02 and 15.1-02-03 of the North Dakota Century Code, relating to the salary of the superintendent of public instruction and the appointment of a deputy superintendent; and to amend and reenact sections 15-59-06, 15-59-06.2, 15-59-07, 44-03-01, and 54-44.1-12 of the North Dakota Century Code, relating to special education, the appointment of deputies, and executive budget allotments.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the department of public instruction, the school for the deaf, the school for the blind, and the state library for the purpose of defraying the expenses of their various divisions, for the biennium beginning July 1, 1999, and ending June 30, 2001, as follows:

Subdivision 1.

DEPARTMENT OF PUBLIC INSTRUCTION

Salaries and wages	\$11,152,952
Operating expenses	9,809,720
Equipment	491,036
Grants - Foundation aid and transportation	479,006,259
Grants - Revenue supplement payments	3,100,000
Grants - Tuition apportionment	53,528,217
Grants - Special education	46,600,000
Grants - Other grants	143,318,663
Geographic education	50,000
SENDIT network	546,669
National board certification	<u>20,000</u>
Total all funds	\$747,623,516
Less estimated income	<u>204,137,871</u>
Total general fund appropriation	\$543,485,645

Subdivision 2.

STATE LIBRARY

Salaries and wages	\$1,953,203
Operating expenses	1,109,782
Equipment	40,000
Grants	<u>1,453,745</u>
Total all funds	\$4,556,730
Less estimated income	<u>1,593,819</u>
Total general fund appropriation	\$2,962,911

Subdivision 3.

SCHOOL FOR THE DEAF

Salaries and wages	\$4,275,930
Operating expenses	1,015,458
Equipment	74,824
Capital improvements	<u>36,327</u>
Total all funds	\$5,402,539
Less estimated income	<u>720,903</u>
Total general fund appropriation	\$4,681,636

Subdivision 4.

SCHOOL FOR THE BLIND

Salaries and wages	\$2,391,456
Operating expenses	678,059
Equipment	70,500
Capital improvements	<u>51,790</u>
Total all funds	\$3,191,805
Less estimated income	<u>1,002,577</u>
Total general fund appropriation	\$2,189,228
Grand total general fund appropriation S.B. 2013	\$553,319,420
Grand total special funds appropriation S.B. 2013	\$207,455,170
Grand total all funds appropriation S.B. 2013	\$760,774,590

SECTION 2. APPROPRIATION - TUITION APPORTIONMENT. The sum of \$53,528,217, or such greater or lesser sums as become available, included in the grants - tuition apportionment and estimated income line items in subdivision 1 of section 1 of this Act, are hereby appropriated to the department of public instruction out of any moneys in the state tuition fund in the state treasury to the public schools of this state as provided in section 2 of article IX of the Constitution of North Dakota and chapter 15-44 for the biennium beginning July 1, 1999, and ending June 30, 2001.

SECTION 3. EXPENDITURE AUTHORITY. The superintendent of public instruction may expend funds appropriated in the grants - foundation aid and transportation and grants - special education line items in subdivision 1 of section 1 of this Act in payment of grants for education services that were due in the 1997-99 biennium but which were not filed, claimed, or properly supported by the education provider in question until after June 30, 1999.

SECTION 4. NATIONAL BOARD CERTIFICATION. The national board certification line item in subdivision 1 of section 1 of this Act must be distributed by the department of public instruction to the education standards and practices board to pay one-half of the application fee required to be remitted to the national board for professional teaching standards for each applicant from this state taking the national board examination.

SECTION 5. DISTRIBUTION OF SPECIAL EDUCATION AID. The grants - special education line item in subdivision 1 of section 1 of this Act must be distributed as follows:

1. Eleven million five hundred thousand dollars to reimburse school districts or special education units for excess costs incurred relating to contracts for students with disabilities and for boarding care reimbursements, as provided in sections 15-40.2-08, 15-59-06, 15-59-06.2, 15-59-07, and 15-59-07.2. Of this amount, \$5,500,000 must be distributed during the fiscal year ending June 30, 2000, and \$6,000,000 must be distributed during the fiscal year ending June 30, 2001. Any funds remaining after distributions pursuant to sections 15-40.2-08, 15-59-06, 15-59-06.2, 15-59-07, and 15-59-07.2 for either year must be distributed to school districts and special education units to proportionately reduce school district and special education unit liability for costs in excess of 2.5 times the state average per student cost, as provided in sections 15-59-06, 15-59-06.2, 15-59-07, and 15-59-07.2.
2. Four hundred thousand dollars to reimburse school districts or special education units for gifted and talented programs upon the submission of an application that is approved in accordance with guidelines adopted by the superintendent of public instruction. The superintendent of public instruction shall encourage cooperative efforts for gifted and talented programs among school districts and special education units.

3. Any amount remaining in the grants - special education line item must be distributed on a per student basis as required by section 15-40.1-07.6, excluding reimbursements for student contracts, boarding care, and gifted and talented programs. State special education payments distributed as required by section 15-40.1-07.6 must be reduced by the amount of matching funds required to be paid by school districts or special education units for students participating in the medicaid program. Special education funds equal to the amount of the matching funds required to be paid by the school district or special education unit must be paid by the superintendent of public instruction to the department of human services on behalf of the school district or unit.

SECTION 6. TECHNOLOGY GRANTS. The grants - other grants line item in subdivision 1 of section 1 of this Act includes \$6,000,000 from the state general fund for grants to schools for technology or teacher professional development related expenditures. The educational telecommunications council shall determine the maximum amount to which each school district is entitled by dividing the number of elementary and secondary students in average daily membership in this state into the amount appropriated from the state general fund in subdivision 1 of section 1 of this Act for technology grants and then multiplying the result by the number of students in average daily membership in each district. Prior to the distribution of grants pursuant to this section, the educational telecommunications council may establish a minimum grant amount of \$5,000. A school district is not eligible to receive a grant under this section unless the administrative office of the district is connected to the internet.

SECTION 7. PAYMENTS FOR LIMITED ENGLISH PROFICIENT STUDENTS. The grants - foundation aid and transportation line item in subdivision 1 of section 1 of this Act includes up to \$400,000 from the state general fund which, pursuant to section 15-40.1-07.7, must be distributed to school districts educating limited English proficient students.

SECTION 8. INDIRECT COST ALLOCATION. Notwithstanding section 54-44.1-15, the department of public instruction may deposit indirect cost recoveries in its operating account.

SECTION 9. DISPLACED HOMEMAKER FUND. The amount of \$250,000, or so much of the sum as may be necessary, included in the estimated income line item in subdivision 1 of section 1 of this Act is from the displaced homemaker fund for the purpose of providing services for displaced homemakers as provided in chapter 14-06.1 for the biennium beginning July 1, 1999, and ending June 30, 2001.

SECTION 10. GRANTS. The grants line item in subdivision 2 of section 1 of this Act includes \$888,745 for aid to public libraries of which no more than one-half is to be expended during the fiscal year ending June 30, 2000.

SECTION 11. FEES DEPOSITED IN OPERATING FUND. Any moneys included in the estimated income line item in subdivision 4 of section 1 of this Act, collected for subscription fees or braille fees, must be deposited in the school for the blind operating fund in the state treasury and may be spent subject to appropriation by the legislative assembly.

SECTION 12. EXEMPTION. The operating expenses line item in subdivision 1 of section 1 of chapter 13 of the 1997 Session Laws includes up to \$70,400 from the state general fund which is not subject to the provisions of section 54-44.1-11 and may be used for continued operating costs for the accreditation program during the biennium beginning July 1, 1999, and ending June 30, 2001.

SECTION 13. RED RIVER VALLEY WRITING PROJECT. The operating expenses line item in subdivision 1 of section 1 of this Act includes \$10,000 from the state general fund which must be used to support the Red River Valley writing project.

SECTION 14. FUNDING FOR LEADERSHIP IN EDUCATIONAL ADMINISTRATION DEVELOPMENT CONSORTIUM AND TEACHER CENTER NETWORK. The grants - other grants line item in subdivision 1 of section 1 of this Act includes \$200,000 from the state general fund for grants to the leadership in educational administration development consortium and \$210,000 from the state general fund for grants to the teacher center network.

SECTION 15. LEGISLATIVE INTENT - LEADERSHIP IN EDUCATIONAL ADMINISTRATION DEVELOPMENT CONSORTIUM AND TEACHER CENTER NETWORK - COOPERATIVE PROGRAMS. It is the intent of the fifty-sixth legislative assembly that to the extent possible, the leadership in educational administration development consortium and the teacher center network work cooperatively to improve the development and delivery of programs and services to educational administrators and teachers.

SECTION 16. LEGISLATIVE INTENT - ELECTRONIC ACCESS TO DEPARTMENT OF PUBLIC INSTRUCTION PUBLICATIONS - SCHOOL DISTRICT ELECTRONIC REPORTING. It is the intent of the fifty-sixth legislative assembly that to reduce printing and mailing costs incurred by the department of public instruction and to provide additional access to information, by July 1, 2000, the department shall, to the extent possible, provide electronic access to all publications and other documents produced by the department for distribution to school districts and shall reduce the number of publications and documents printed and distributed by mail. It is the intent of the fifty-sixth legislative assembly that to reduce mailing costs incurred by school districts and to increase the efficiency of communications between school districts and the department of public instruction, by July 1, 2001, school districts shall, to the extent possible, electronically prepare and transfer all reports and information required to be submitted to the department of public instruction.

SECTION 17. CREDENTIALING PROCESS FOR SPECIAL EDUCATION TEACHERS. The superintendent of public instruction may not change the credentialing process for special education teachers as it is in effect on March 1, 1999, without first convening a meeting to include representatives of the North Dakota council of education leaders, the council of exceptional children, the North Dakota education association, and the North Dakota school boards association. The purpose of the meeting is to receive comments regarding the proposed changes, the applicability of the proposed changes, including the scheduling, the manner of implementation, associated costs, and the short-term and long-term effects of the proposed changes. If, within thirty days after the date of the meeting, members of any two representative groups present at the meeting object in writing to the proposed changes, the superintendent may not implement the change prior to July 1, 2001.

SECTION 18. SCHOOL DISTRICT FINANCIAL DATA - REPORTING - REQUIREMENTS. The superintendent of public instruction shall develop standardized reporting forms, in both hard copy and electronic format, prescribing the manner in which school district superintendents and business managers must account for and report financial data. The superintendent of public instruction shall report to the interim education finance committee of the legislative council regarding the content of the reports and specific actions taken to account for transfers from school district general funds, to eliminate or reduce variations in the reporting of data, and to ensure that the financial data is available in a form that allows for accurate and consistent comparisons.

SECTION 19. NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS TESTING. The department of public instruction shall participate in the national assessment of educational progress (NAEP) testing program for the 1999-2001 biennium.

SECTION 20. FEDERAL FUNDING FOR SPECIAL EDUCATION URGED. The fifty-sixth legislative assembly urges the Congress of the United States and the President to increase federal funding for special education to achieve, within the next three years, the statutory goal of the federal government providing funding for special education students equal to 40 percent of the national average per student educational expenditure. The secretary of state shall send copies of this section to the President, the members of the North Dakota congressional delegation, the national conference of state legislatures, and the state superintendent of public instruction.

SECTION 21. LAND BOARD DISTRIBUTIONS. Notwithstanding the provisions of section 15-03-05.2, during the 1999-2001 biennium, the board of university and school lands shall distribute to the school for the deaf and the school for the blind all income from permanent funds managed for the benefit of those institutions.

SECTION 22. LEGISLATIVE COUNCIL STUDY - DIVISION OF INDEPENDENT STUDY. The legislative council shall consider studying, during the 1999-2001 interim, the role, mission, operation, and privatization of the division of independent study, including educational services provided by the division to out-of-state students. The legislative council shall report its findings and recommendations,

together with any legislation required to implement the recommendations, to the fifty-seventh legislative assembly.

SECTION 23. LEGISLATIVE INTENT - POSITION TRANSFERS - DIVISION OF INDEPENDENT STUDY. It is the intent of the fifty-sixth legislative assembly that for the 1999-2001 biennium, the department of public instruction be authorized to have no more than 131.95 full-time equivalent positions and that no more than 38.7 of these positions be in the division of independent study. It is the intent of the fifty-sixth legislative assembly that if, during the 1999-2001 biennium, the superintendent of public instruction transfers any positions to the division of independent study from other divisions of the department of public instruction, the transfers be reported to the budget section of the legislative council at its next meeting.

SECTION 24. CLASS SIZE REDUCTION GRANTS - REPORT TO BUDGET SECTION. During the 1999-2001 biennium, the department of public instruction shall present a report to the budget section on the distribution of federal class size reduction initiative grants.

SECTION 25. AMENDMENT. If House Bill No. 1034 does not become effective, section 15-21-02 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15-21-02. Salary and traveling expenses. The annual salary of the superintendent of public instruction is ~~fifty-six~~ fifty-nine thousand ~~five~~ four hundred ~~sixty-eight~~ thirty-seven dollars through June 30, ~~1998~~ 2000, ~~sixty thousand six hundred twenty-six~~ dollars through December 31, 2000, and ~~fifty-eight~~ sixty-seven thousand ~~two~~ six hundred ~~seventy-two~~ nineteen dollars thereafter. The superintendent is also entitled to reimbursement for expenses incurred in the discharge of official duties, such expenses to be paid monthly on a warrant prepared by the office of management and budget and signed by the state auditor, upon the filing of an itemized and verified statement of expenses.

SECTION 26. AMENDMENT. Section 15.1-02-02 of the North Dakota Century Code as created by House Bill No. 1034, as approved by the fifty-six legislative assembly, is amended and reenacted as follows:

15.1-02-02. Salary and traveling expenses. The annual salary of the superintendent of public instruction is ~~fifty-eight~~ fifty-nine thousand ~~two~~ four hundred ~~seventy-two~~ thirty-seven dollars through June 30, 2000, ~~sixty thousand six hundred twenty-six~~ dollars through December 31, 2000, and ~~sixty-seven thousand six hundred nineteen~~ dollars thereafter.

SECTION 27. AMENDMENT. If House Bill No. 1034 does not become effective, Section 15-21-03 of the North Dakota Century Code is amended and reenacted as follows:

15-21-03. Appointment of ~~deputy~~ Assistant assistant - Clerks. The superintendent of public instruction may appoint a ~~deputy for whose official acts he is responsible, and~~ an assistant whose duty it is to assist the superintendent of public instruction in visiting schools and institutes, to attend school officers' meetings, and to perform such other duties as may be required of him. The superintendent also may employ such clerks as are necessary in carrying on the work of the department.

SECTION 28. AMENDMENT. Section 15.1-02-03 of the North Dakota Century Code as created by House Bill No. 1034, as approved by the fifty-sixth legislative assembly, is amended and reenacted as follows:

15.1-02-03. Appointment of ~~deputy~~ assistant - Employment of personnel. The superintendent of public instruction may appoint a ~~deputy superintendent and~~ an assistant. The superintendent may also hire personnel or contract with other persons to perform the work of the department of public instruction.

SECTION 29. AMENDMENT. Section 15-59-06 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15-59-06. State cooperation in special education. Students with disabilities who are receiving special education services must be deemed to be regularly enrolled in the school district of residence and must be included in the determination of payments from the state foundation aid program whether or not the students regularly attend school in the school or school district receiving the payments. A prorated state foundation aid payment for a student to attend a public school program for students with disabilities, approved by the superintendent of public instruction, may be made if the individualized education program for the student is written during the last quarter of the school term and specifically requires that the student attend a summer special education program. In the case of a student who is enrolled in a nonpublic school but who attends a public school special education program, payments must be made to the appropriate public school district for the portion of a normal schoolday the student participates in special education. For the purposes of this section, a normal schoolday consists of six hours. The amount the school district is required to expend must be reduced proportionately if a student attends the school for less than an entire year. If any school district within a special education unit has a student with disabilities who, in the opinion of the student's multidisciplinary team, is unable to attend the public schools in the special education unit because of a disability, the school district shall contract with an in-state public school located outside the special education unit in which the student is a legal resident, if the school will accept the student and has proper services for the student's education. No school district may enter into a contract with any in-state public school for the education of any student because of a disability, unless the services provided by the school and the contract have been approved in advance by the superintendent of public instruction. The contract must provide that the school district agrees to pay to the in-state public school as part of the cost of educating the student an amount for the school year equal to two and one-half times the state average per student elementary or high school cost, depending upon the student's level of enrollment. The payment may not exceed the actual per student cost incurred by the in-state public school. The school district's liability must be reduced proportionately if the student attends the in-state public school for less than an entire year. The superintendent of public instruction, upon notification by the admitting district and upon verification by the superintendent that tuition payments are due the admitting district and are unpaid, shall withhold ~~all payments~~ from the state for foundation aid ~~payments~~ to the district of residence an amount equal to the unpaid tuition until the ~~tuition due that amount~~ has been paid. The transportation must be furnished as provided by rules of the superintendent of public instruction. The superintendent of public instruction shall reimburse school districts eighty percent of the remainder of the actual cost of educating the student with disabilities not covered by other payments or credits ~~must be paid from funds,~~ within the limits of legislative appropriations for that purpose.

SECTION 30. AMENDMENT. Section 15-59-06.2 of the North Dakota Century Code is amended and reenacted as follows:

15-59-06.2. Cost of special education - Liability of school district. If allowable costs for special education and related services for a child with disabilities in a special education program, as determined by the superintendent of public instruction, exceed the reimbursement provided by the state, the school district is liable to pay for each such student an amount over the state reimbursement up to a maximum each school year of two and one-half times the state average ~~per pupil per student~~ elementary or high school cost, depending on whether the enrollment would be in a grade or high school department, and twenty percent of all remaining costs. The two and one-half times amount includes the amount the school district is required to pay in section 15-59-06. The state is liable for ~~one hundred~~ eighty percent of the remainder of the cost of education and related services for each such student with disabilities within the limits of legislative appropriations for that purpose.

SECTION 31. AMENDMENT. Section 15-59-07 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15-59-07. Contracts for students with disabilities to attend private or out-of-state public schools. If any school district in this state has a student with disabilities who in the opinion of the student's multidisciplinary team is unable to attend the public schools in the district because of a physical or mental disability or because of a learning disability, the school district shall contract with any accredited private nonsectarian nonprofit corporation within or outside the state or an out-of-state public school which has proper facilities for the education of the student, if there is no public school in the state which has the necessary services and which will accept the student. No school district may enter

a contract with any private nonsectarian nonprofit corporation or out-of-state public school for the education of any student having a physical or learning disability, unless the services provided by the school and the contract have been approved in advance by the superintendent of public instruction. The contract must provide that the school district agrees to pay to the private nonsectarian nonprofit corporation or the out-of-state public school as part of the cost of educating the student an amount for the school year equal to two and one-half times the state average per student elementary or high school cost, depending upon the student's level of enrollment and twenty percent of all remaining costs. The payment may not exceed the actual per student cost incurred by the private nonsectarian nonprofit corporation or out-of-state public school. The transportation must be furnished and reimbursed as provided by rules of the superintendent of public instruction. ~~The remainder of the actual cost of educating the student with disabilities not covered by other payments or credits must be paid from funds appropriated by the legislative assembly for special education notwithstanding limitations cited in section 15-59-06.~~ The superintendent of public instruction shall reimburse school districts eighty percent of the remainder of the actual cost of educating each student with disabilities not covered by other payments or credits within the limits of legislative appropriations for that purpose. The district of residence is entitled to the per student foundation payment.

SECTION 32. AMENDMENT. Section 44-03-01 of the North Dakota Century Code is amended and reenacted as follows:

44-03-01. Deputies may be appointed by certain officers. The secretary of state, state auditor, state treasurer, ~~superintendent of public instruction,~~ commissioner of insurance, commissioner of agriculture, commissioner of labor, district assessor, and city assessor each may appoint a deputy for whose acts as such ~~he~~ the officer shall be responsible. Each officer required to give a bond may require a bond from any deputy appointed by ~~him~~ the officer. Any such bond must be in the penal sum of not more than half the penal sum of the appointing officer's own bond and may be retained by the officer for ~~his~~ the officer's own protection. Such appointment must be in writing and is revocable in writing at the pleasure of the principal, and such appointment and revocation must be filed as the bond and oath of the principal are filed.

SECTION 33. AMENDMENT. Section 54-44.1-12 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-44.1-12. Control over rate of expenditures. The director of the budget shall exercise continual control over the execution of the budget affecting the departments and agencies of state government, with the exception of the legislative and judicial branches. Execution means the analysis and approval of all commitments for conformity with the program provided in the budget, frequent comparison of actual revenues and budget estimates, and on the basis of these analyses and comparisons control the rate of expenditures through a system of allotments. The allotment must be made by specific fund and all departments and agencies that receive moneys from that fund must be allotted on a uniform percentage basis, except that appropriations to the department of public instruction for foundation aid, transportation aid, and special education aid may only be allotted to the extent that the allotment can be offset by transfers from the foundation aid stabilization fund. Before an allotment is made which will reduce the amount of funds which can be disbursed pursuant to an appropriation or before an allotment disallowing a specific expenditure is made, the director shall find one or more of the following circumstances to exist:

1. The moneys and estimated revenues in a specific fund from which the appropriation is made are insufficient to meet all legislative appropriations from the fund.
2. The payment or the obligation incurred is not authorized by law.
3. The expenditure or obligation is contrary to legislative intent as recorded in any reliable legislative records, including:
 - a. Statements of legislative intent expressed in enacted appropriation measures or other measures enacted by the legislative assembly; and
 - b. Statements of purpose of amendment explaining amendments to enacted appropriation measures, as recorded in the journals of the legislative assembly.

4. Circumstances or availability of facts not previously known or foreseen by the legislative assembly which make possible the accomplishment of the purpose of the appropriation at a lesser amount than that appropriated.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-sixth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2013.

Senate Vote: Yeas 36 Nays 11 Absent 2

House Vote: Yeas 66 Nays 24 Absent 8

Secretary of the Senate

Received by the Governor at _____ M. on _____, 1999.

Approved at _____ M. on _____, 1999.

Governor

Filed in this office this _____ day of _____, 1999,

at _____ o'clock _____ M.

Secretary of State