

**Department of Public Instruction
Senate Bill Nos. 2013, 2032, 2421**

	FTE Positions	General Fund	Other Funds	Total
2003-05 executive budget (bills as introduced)	93.25	\$608,165,035	\$265,980,642	\$874,145,677
2003-05 legislative appropriations	93.25	604,725,006	266,058,803	870,783,809
Legislative increase (decrease) to executive budget	0.00	(\$3,440,029)	\$78,161	(\$3,361,868)
Legislative increase (decrease) to 2001-03 appropriations	(2.00)	\$32,961,352	\$23,285,244 ¹	\$56,246,596 ¹

¹ This amount reflects the appropriation of \$10 million from federal funds to the Department of Public Instruction for the purpose of providing grants to school districts authorized in Section 2 of Senate Bill No. 2013.

SUMMARY OF LEGISLATIVE CHANGES TO THE EXECUTIVE BUDGET AND MAJOR FUNDING ITEMS

Salaries and Wages

The legislative action affecting the recommended appropriation for the Department of Public Instruction is in accordance with legislative salary and fringe benefits guidelines as contained in Senate Bill No. 2423, which allows agencies to provide salary increases of up to 1 percent on January 1, 2004, and up to 2 percent on January 1, 2005, to be funded in part from pooled savings accumulated from agency FTE position reductions.

	Major Items FTE Positions	General Fund	Other Funds	Total
The legislative action:				
Removed funding recommended in the executive budget for state employee salary increases		(\$36,013)	(\$65,110)	(\$101,123)
Reduced funding recommended in the executive budget for state employee health insurance premiums from \$493 to \$488.70 per month per policy		(3,178)	(6,729)	(9,907)
Reduced funding for information technology. The amount reduced represents a reduction in information technology funding of approximately 5 percent.		(44,851)		(44,851)
Decreased funding for salaries and wages		(163,987)		(163,987)
Decreased funding for temporary salaries and wages		(20,000)		(20,000)
Decreased funding for operating expenses including reductions in travel (\$100,000), postage (\$10,000), dues and professional development (\$40,000), printing (\$50,000) and miscellaneous operating expenses (\$100,000)		(300,000)		(300,000)
Removed funding for hold harmless payments to school districts. (The Legislative Assembly did not adopt the executive budget		(1,200,000)		(1,200,000)

recommendation to provide additional teacher compensation payments for the 2003-05 biennium and, therefore, the Legislative Assembly removed funding proposed for hold harmless payments to school districts.)

Removed funding for state cost-sharing assistance to school districts entering into joint powers agreements	(500,000)	(500,000)
Increased funding for state school aid, including payments for limited English proficient students and transportation aid from \$478,056,990 to \$489,379,990. (The 2003-05 biennium appropriation is an increase of \$15,408,342 compared to the 2001-03 biennium appropriation of \$473,971,648.)	11,323,000	11,323,000
Reduced funding for teacher compensation payments. (The Legislative Assembly continued the current level of teacher compensation payments of \$1,000 for first-year teachers and \$3,000 for second-year returning teachers, but the Legislative Assembly did not adopt the executive budget recommendation to provide an additional \$500 per third-year returning teacher in the first year of the 2003-05 biennium and an additional \$1,000 per fourth-year returning teacher in the second year of the biennium.)	(14,423,000)	(14,423,000)
Increased funding for revenue supplement payments from \$3.2 million to \$5 million. (The 2003-05 biennium appropriation is an increase of \$2.8 million compared to the 2001-03 biennium appropriation of \$2.2 million.)	1,800,000	1,800,000
Provided funding for the Northern Plains Writing Project (\$28,000) and the Red River Writing Project (\$20,000)	48,000	48,000
Increased funding for grants to teacher centers from \$220,000 to \$230,000	10,000	10,000
Increased funding for the adult education program from \$900,000 to \$920,000. (The additional funding is to be allocated as determined by the department to address salary concerns for the teachers in the adult education program who have not received teacher compensation payments.)	20,000	20,000
Provided special funds authority for other grants. (The funding is to be used by the department in conjunction with \$105,000 of general fund carryover from the 2001-03 biennium for providing a grant for the purpose of funding the North Central Council of School Televisions licensing of educational television programs for classroom use by North Dakota elementary and secondary		150,000

schools. The funding of \$105,000 may be used as a match for grants in amounts up to \$150,000.)

Provided funding for completing the data envelopment analysis project (Senate Bill No. 2032)		50,000		50,000
Total	0.00	(\$3,440,029)	\$78,161	(\$3,361,868)

FTE Changes

The 2003-05 biennium appropriation includes funding for 93.25 FTE positions, 2 FTE positions less than authorized for the 2001-03 biennium. The Legislative Assembly did not change the executive recommendation to remove 1 FTE administrative staff officer position and 1 FTE Native American education program director position.

State Aid - Per Student, Transportation Aid, and Limited English Proficiency Payments

The Legislative Assembly provided a general fund appropriation of \$489,379,990 for per student, transportation aid, and limited English proficiency payments for the 2003-05 biennium. The 2003-05 biennium appropriation is \$15,408,342 more than the 2001-03 biennium appropriation of \$473,971,648 and \$11,323,000 more than the executive budget recommendation of \$478,056,990. The legislative appropriation increases per student payments from \$2,347 in 2002-03 to \$2,509 in 2003-04 and \$2,623 in 2004-05. See the schedules following this section for a comparison of state school aid and other grants for the 2001-03 and 2003-05 bienniums.

Transportation Aid Payments

The Legislative Assembly did not change the executive budget recommendation to provide a general fund appropriation of \$34.8 million (included in the state school aid line item) for transportation aid, a decrease of \$1.2 million from the amount appropriated for the 2001-03 biennium of \$36 million and \$400,000 less than the executive budget recommendation of \$35.2 million. Section 31 of Senate Bill No. 2421 provides that the Department of Public Instruction distribute transportation aid to each school district in the state in an amount equal to the transportation aid payments received by the school district during the 2001-03 biennium.

Limited English Proficiency Payments

The Legislative Assembly provided a general fund appropriation of \$650,000 (included in the state school aid line item) for payments to school districts educating students with limited English proficiency, the same amount of funding appropriated for the 2001-03 biennium. House Bill No. 1383 amends North Dakota Century Code (NDCC) Section 15.1-27-12 to create a four-tiered payment system. Under current law, schools receive payments of \$425 for each Level I student, \$325 for each Level II student, and \$225 for each Level III student. Effective August 1, 2003, the department shall calculate the total weighted number of students eligible for payment for each year by determining the sum of all English language learner students weighted as follows: 10 times the number of Level I students, 8 times the number of Level II students, 4 times the number of Level III students, and the number of Level IV students. The department shall determine the per student amount used to calculate payments for the first year of the biennium by dividing the total weighted number of students eligible for payment into 49 percent of the total amount appropriated for the biennium and the per student amount used to calculate payments for the second year of the biennium by dividing the total weighted number of students eligible for payments into 51 percent of the total amount appropriated.

Teacher Compensation Payments

The Legislative Assembly provided a general fund appropriation of \$51,854,000 to continue the current level of teacher compensation payments of \$1,000 for first-year teachers and \$3,000 for second-year returning teachers. The Legislative Assembly did not adopt the executive budget recommendation to provide an additional \$500 per third-year returning teacher in the first year of the 2003-05 biennium and an additional \$1,000 per fourth-year returning teacher in the second year of the biennium. The funding of \$51,854,000 is \$16,818,000 more than the 2001-03 biennium appropriation of \$35,036,000 and \$14,423,000 less than the executive budget recommendation of \$66,277,000. Section 38 of Senate Bill No. 2421 provides that each school district shall use an amount equal to at least 70 percent of all new money received for per student payments and tuition apportionment payments for the purpose of increasing the compensation paid to teachers. School districts may be exempted from the requirement if the board of the school district determines by an affirmative vote of two-thirds of its members that complying with the provisions would place the school district in the position of having insufficient fiscal resources to meet its other obligations.

Revenue Supplement Payments

The Legislative Assembly provided a general fund appropriation of \$5 million for revenue supplement payments to school districts below the state average taxable valuation per student and below the state average educational expenditure per student, as defined in NDCC Section 15.1-27-11. The 2003-05 legislative appropriation is \$1.8 million more than the 2003-05 executive recommendation of \$3.2 million and \$2.8 million more than the 2001-03 biennium appropriation of \$2.2 million for revenue supplement payments.

Special Education Aid

The Legislative Assembly provided a general fund appropriation of \$49,898,695 for special education aid, the same amount as included in the executive budget recommendation and the same amount provided for in the 2001-03 biennium. Section 7 of Senate Bill No. 2013 provides legislative intent that the appropriation for special education be distributed as follows:

1. \$13 million to reimburse school districts or special education units for excess costs incurred relating to contracts for students with disabilities (\$335,000 more than the 2001-03 biennium appropriation).
2. \$400,000 to reimburse school districts or special education units for gifted and talented programs (no change from the amount appropriated for the 2001-03 biennium).
3. \$36,498,695 distributed on a per student basis as required by NDCC Section 15.1-27-10 (\$335,000 less than the 2001-03 biennium appropriation).

Reorganization Bonus Payments

Senate Bill No. 2421 provides a general fund appropriation of \$500,000 for reorganization bonus payments pursuant to NDCC Section 15.1-12-11.1. Section 15.1-12-11.1 provides that if a newly reorganized district consists of at least 800 square miles or consists of at least 500 square miles, has a student population of at least 520, and had no practical reorganization alternatives to allow it to meet the 800 square mill criteria, the district is entitled to a reorganization bonus. The bonus amount is based on the number of students, the number of square miles included in the reorganized district, and the number of districts reorganizing.

Contingent Distributions - Per Student and Transportation Aid Payments

Section 37 of Senate Bill No. 2421 provides that if any funds appropriated for per student and transportation aid payments remain unspent after all statutory obligations are met, the Department of Public Instruction shall distribute the funds as follows:

1. The first \$250,000 for providing reimbursements to the chief administrators of joint powers agreements.
2. The next \$1 million for providing reorganization bonuses, pursuant to NDCC Section 15.1-12-11.1, to school districts having reorganizations effective after July 1, 2003, and before July 1, 2005.
3. Any remaining amounts as additional per student payments on a prorated basis according to the average daily membership of school districts during the 2004-05 school year.

Contingent Distributions - Teacher Compensation

Section 36 of Senate Bill No. 2421 provides that if any funds appropriated for teacher compensation payments remain unspent after all statutory obligations are met, the Department of Public Instruction shall distribute "hold harmless" payments to school districts. The payments will be calculated as follows:

1. The department must calculate the difference between the following:
 - a. The total payments the district will receive during the 2003-05 biennium for per student payments at the rates of \$2,509 and \$2,623 and teacher compensation payments, as appropriated by the Legislative Assembly.
 - b. The total payments the district would have received during the 2003-05 biennium for per student payments if the rates had included the total amount appropriated for teacher compensation payments.
2. If the amount a district would have received under Option "b" above exceeds the amount a district is estimated to receive under Option "a," the department must calculate the difference and pay that amount to the district on or before June 30, 2005. If insufficient funds are available to make all of the payments required by this section, the department shall prorate the available amount among the eligible districts.

3. If any money remains after completing the payment requirements of subsections 1 and 2, the department shall use the remaining money to provide additional per student payments on a prorated basis according to the average daily membership of school districts during the 2004-05 school year.

Other Sections in Bill

Tuition apportionment - Section 3 provides that any money available in the state tuition fund in excess of the \$69,495,371 appropriated in Section 1 of the bill is appropriated to the Department of Public Instruction for distribution to school districts.

2001-03 biennium carryover - Section 4 authorizes the Department of Public Instruction to continue \$105,000 of the department's unspent 2001-03 biennium appropriation to be used in conjunction with special funds received by the department for the purpose of providing a grant to fund the North Central Council of School Television's licensing of educational television programs for classroom use by North Dakota elementary and secondary schools. The funding may be used as a match for other grants to fund the North Central Council of School Television.

Adult education program - Section 5 provides legislative intent that the additional \$20,000 of funding from the general fund provided for the department's adult education program is to be distributed by the department to address salary concerns for those teachers who have not received teacher compensation payments.

Payments for 2001-03 biennium educational services - Section 6 provides that the Department of Public Instruction may use money appropriated for state school aid and special education aid for the 2003-05 biennium to pay claims due but not filed with the department during the 2001-03 biennium.

Distribution of special education aid - Section 7 provides legislative intent regarding the distribution of special education aid, as follows:

1. \$13 million to reimburse school districts or special education units for excess costs incurred relating to contracts for students with disabilities.
2. \$400,000 to reimburse school districts or special education units for gifted and talented programs.
3. \$36,498,695 distributed on a per student basis as required by NDCC Section 15.1-27-10.

Payments for limited English proficiency - Section 8 indicates that \$650,000 of the amount appropriated for state school aid must be used for payments to school districts educating limited English proficient students pursuant to NDCC Section 15.1-27-12. This represents the same amount provided for payments for limited English proficiency in the 2001-03 biennium.

Indirect cost allocation - Section 9 provides that notwithstanding NDCC Section 54-44.1-15, the department may deposit indirect cost recoveries in its operating account. Section 54-44.1-15 provides that indirect cost recoveries must be deposited in the general fund, as determined by the Office of Management and Budget.

Displaced homemaker fund - Section 10 provides that \$251,747 of the amount appropriated in Section 1 of the bill is from the displaced homemaker fund and is for the purpose of providing services to displaced homemakers.

No Child Left Behind Act - Section 13 provides legislative intent that the Department of Public Instruction focus on being an advocate and facilitator for those schools having difficulty complying or those not in compliance with the federal mandates contained in the federal No Child Left Behind Act, and that the department seek to promulgate the most flexible interpretation of the No Child Left Behind Act to assist public schools in the state.

Nonteaching employees' retirement - Sections 14 through 18 amend the North Dakota Century Code to provide that nonteaching employees of the Department of Public Instruction may transfer from the Teachers' Fund for Retirement to the Public Employees Retirement System.

Appropriation for the Public Employees Retirement System - Section 19 provides a special funds appropriation of \$3,000 to the Public Employees Retirement System for the purpose of implementing the changes necessary to allow for nonteaching employees of the Department of Public Instruction to transfer from the Teachers' Fund for Retirement to the Public Employees Retirement System.

Related Legislation

Data envelopment analysis project - Senate Bill No. 2032 provides a \$50,000 general fund appropriation to the Department of Public Instruction for completing the department's data envelopment analysis project. The project involves an analysis of comparable operating units for measuring and encouraging efficiency. An initial general fund appropriation of \$50,000 was provided for the project by the 1997 Legislative Assembly, but the project received no further funding.

Education Standards and Practices Board - Senate Bill No. 2135 provides a \$40,000 general fund appropriation to the Education Standards and Practices Board for procuring federal matching grants to provide for the national board certification of teachers.

Per student payments, weighting factors, and teacher compensation - Senate Bill No. 2421:

Increases per student payments from \$2,347 in 2002-03 to \$2,509 in 2003-04 and \$2,623 in 2004-05.

Increases the mill deduct from 32 mills in 2002-03 to 34 mills in 2003-04 and 36 mills in 2004-05.

Adjusts the weighting factors used to distribute state school aid payments to 85 percent of the difference between the statutory factor and the factor representing the five-year average cost of education for the first year of the 2003-05 biennium and the five-year average cost of education for the second year of the 2003-05 biennium.

Provides for minimum teacher salaries of \$21,000 for the 2003-04 school year and \$21,500 for the 2004-05 school year.

Provides for distribution of transportation aid payments.

Provides for a Legislative Council study of the manner in which elementary and secondary education is funded in the state and the feasibility and desirability of instituting alternative funding methods.

Provides for the distribution of contingent per student and transportation payments and teacher compensation payments.

Provides that each school district shall use an amount equal to at least 70 percent of all new money received for per student payments and tuition apportionment payments for the purpose of increasing the compensation paid to teachers. School districts may be exempted from the requirement if the board of the school district determines by an affirmative vote of two-thirds of its members that complying with the provisions would place the school district in the position of having insufficient fiscal resources to meet its other obligations.

Provides a general fund appropriation of \$500,000 to the Department of Public Instruction for reorganization bonus payments.

Provides a general fund appropriation of \$5 million to the Department of Public Instruction for revenue supplement payments.

Limited English proficiency payments - House Bill No. 1383 changes the formula for the distribution of limited English proficiency payments.

Transfer of state agency information technology FTE positions - Section 10 of House Bill No. 1505 authorizes the reduction and transfer of 1 FTE position relating to information technology services, including electronic mail, file and print server administration, data base administration, storage, application server, and hosting services, from the Department of Public Instruction to the Information Technology Department. The Department of Public Instruction is to establish an information technology services accounting code consisting of funding related to the salaries and wages for the identified position and related funding for equipment, training, office rent, travel, contracted services, or other related costs. The Department of Public Instruction is to use the funding contained in the information technology services account to purchase information technology services from the Information Technology Department. The Department of Public Instruction is entitled to receive from the Information Technology Department the equivalent in services that would have been performed by the employee in the transferred position at a cost not exceeding the amounts transferred to the agency's information technology services account.