

**Fifty-eighth Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 7, 2003**

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, North Dakota vision services - school for the blind, and the state library; to provide an appropriation; to provide for an exemption; to provide for the distribution of special education payments; to provide statements of legislative intent; to create and enact a new section to chapter 54-52 of the North Dakota Century Code, relating to participation by nonteaching employees of the superintendent of public instruction in the public employees retirement system; to amend and reenact subsection 3 of section 15-39.1-09, subsection 3 of section 54-52-01, subsection 5 of section 54-52-17.4, and subsection 1 of section 54-52.1-03.2 of the North Dakota Century Code, relating to participation by nonteaching employees of the superintendent of public instruction in the public employees retirement system; and to declare an emergency.

**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 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, North Dakota vision services - school for the blind, and the state library for the purpose of defraying the expenses of these agencies, for the biennium beginning July 1, 2003, and ending June 30, 2005, as follows:

Subdivision 1.

DEPARTMENT OF PUBLIC INSTRUCTION

Salaries and wages	\$9,277,686
Operating expenses	13,057,823
Capital assets	15,000
Grants - State school aid	489,379,990
Grants - Teacher compensation payments	51,854,000
Grants - Tuition apportionment	69,495,371
Grants - Special education	49,898,695
Grants - Other grants	<u>182,255,244</u>
Total all funds	\$865,233,809
Less estimated income	<u>266,058,803</u>
Total general fund appropriation	\$599,175,006

Subdivision 2.

STATE LIBRARY

Salaries and wages	\$2,078,571
Operating expenses	1,181,647
Grants	<u>1,396,807</u>
Total all funds	\$4,657,025
Less estimated income	<u>1,629,979</u>
Total general fund appropriation	\$3,027,046

Subdivision 3.

SCHOOL FOR THE DEAF

Salaries and wages	\$4,809,808
Operating expenses	1,102,160

Capital assets	<u>32,723</u>
Total all funds	\$5,944,691
Less estimated income	<u>871,449</u>
Total general fund appropriation	\$5,073,242

Subdivision 4.

VISION SERVICES - SCHOOL FOR THE BLIND

Salaries and wages	\$2,540,292
Operating expenses	698,683
Capital assets	<u>18,233</u>
Total all funds	\$3,257,208
Less estimated income	<u>1,167,383</u>
Total general fund appropriation	\$2,089,825
Grand total general fund appropriation Section 1 of S.B. 2013	\$609,365,119
Grand total special funds appropriation Section 1 of S.B. 2013	\$269,727,614
Grand total all funds appropriation Section 1 of S.B. 2013	\$879,092,733

**SECTION 2. APPROPRIATION.** There is appropriated from special funds derived from federal funds and other income the sum of \$10,000,000, or so much of the sum as may be necessary, to the superintendent of public instruction for the purpose of providing grants for the period beginning with the effective date of this Act and ending June 30, 2003.

**SECTION 3. APPROPRIATION - TUITION APPORTIONMENT.** The sum of \$69,495,371, included in the grants - tuition apportionment line item in subdivision 1 of section 1 of this Act, is from the state tuition fund in the state treasury. Any additional amount in the state tuition fund that becomes available for distribution to public schools is appropriated to the department of public instruction for that purpose for the biennium beginning July 1, 2003, and ending June 30, 2005.

**SECTION 4. EXEMPTION.** The appropriation contained in subdivision 1 of section 1 of chapter 13 of the 2001 Session Laws is not subject to the provisions of section 54-44.1-11 for an amount of up to \$105,000, and this amount may be used by the department of public instruction 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.

**SECTION 5. LEGISLATIVE INTENT - ADULT EDUCATION PROGRAM.** It is the intent of the legislative assembly that the additional \$20,000 of funding from the general fund provided for the department of public instruction's adult education program is to be distributed by the department to address salary concerns for those teachers who have not received the teacher compensation payments.

**SECTION 6. STATE SCHOOL AID AND SPECIAL EDUCATION EXPENDITURE AUTHORITY.** The superintendent of public instruction may expend funds included in the grants - state school aid and grants - special education line items in subdivision 1 of section 1 of this Act in payment of grants for educational services that were due in the 2001-03 biennium but which were not filed, claimed, or properly supported by the education provider until after June 30, 2003.

**SECTION 7. DISTRIBUTION OF SPECIAL EDUCATION AID.** The sum of \$49,898,695, included in the grants - special education line item in subdivision 1 of section 1 of this Act, must be distributed as follows:

1. Thirteen million dollars to reimburse school districts or special education units for excess costs incurred relating to contracts for students with disabilities.
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 line item must be distributed on a per student basis as required by section 15.1-27-10, excluding reimbursements for student contracts and gifted and talented programs. State special education payments distributed as required by section 15.1-27-10 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 8. PAYMENTS FOR LIMITED ENGLISH PROFICIENT STUDENTS.** Payments to school districts educating limited English proficient students, as provided in section 15.1-27-12, must be made by the superintendent of public instruction during the biennium beginning July 1, 2003, and ending June 30, 2005, using up to \$650,000 of the amount included in the grants - state school aid line item in subdivision 1 of section 1 of this Act.

**SECTION 9. INDIRECT COST ALLOCATION.** Notwithstanding section 54-44.1-15, the department of public instruction may deposit indirect cost recoveries in its operating account.

**SECTION 10. DISPLACED HOMEMAKER FUND.** The sum of \$251,747, included in the estimated income line item in subdivision 1 of section 1 of this Act, is from the displaced homemaker fund and must be used by the superintendent of public instruction for the purpose of providing services for displaced homemakers, as provided in chapter 14-06.1, during the biennium beginning July 1, 2003, and ending June 30, 2005.

**SECTION 11. STATE AID TO PUBLIC LIBRARIES.** The line item entitled grants in subdivision 2 of section 1 of this Act includes \$844,307 for aid to public libraries, of which no more than one-half is to be expended during the fiscal year ending June 30, 2004.

**SECTION 12. FEES DEPOSITED IN VISION SERVICES - SCHOOL FOR THE BLIND 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 North Dakota vision services - school for the blind operating fund in the state treasury and may be spent subject to appropriation by the legislative assembly.

**SECTION 13. LEGISLATIVE INTENT - NO CHILD LEFT BEHIND ACT.** It is the intent of the legislative assembly that the department of public instruction have a primary focus of 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 the department seek to promulgate the most flexible interpretation of the No Child Left Behind Act to assist public schools in this state.

**SECTION 14. AMENDMENT.** Subsection 3 of section 15-39.1-09 of the North Dakota Century Code is amended and reenacted as follows:

3. A person, except the superintendent of public instruction, who is certified to teach in this state by the education standards and practices board and who is first employed and entered upon the payroll of the superintendent of public instruction after January 6, 2001, may elect to become a participating member of the public employees retirement system. An election made by a person to participate in the public employees retirement system under this subsection is irrevocable. Nonteaching employees of the superintendent of public instruction, including the superintendent of public instruction, may elect to transfer to the public employees retirement system pursuant to section 16 of this Act.

**SECTION 15. AMENDMENT.** Subsection 3 of section 54-52-01 of the North Dakota Century Code is amended and reenacted as follows:

3. "Eligible employee" means all permanent employees who meet all of the eligibility requirements set by this chapter and who are eighteen years or more of age, and includes appointive and elective officials who elect to remain members of the retirement system; provided, that judges of the supreme and district courts eligible under section 54-52-02.3 ~~and~~, appointed officials who elect to participate under section 54-52-02.5, and nonteaching employees of the superintendent of public instruction, including the superintendent of public instruction, who elect to transfer from the teachers' fund for retirement to the public employees retirement system under section 16 of this Act are eligible employees and shall participate in the public employees retirement system. Eligible employee does not include nonclassified state employees who elect to become members of the retirement plan established under chapter 54-52.6 but does include employees of the judicial branch and employees of the board of higher education and state institutions under the jurisdiction of the board.

**SECTION 16.** A new section to chapter 54-52 of the North Dakota Century Code is created and enacted as follows:

**Participation by nonteaching employees of the office of the superintendent of public instruction.** Notwithstanding any other provision of law, between the effective date of this Act and five p.m. on August 29, 2003, a nonteaching employee of the superintendent of public instruction, including the superintendent of public instruction, who is otherwise eligible to participate in the public employees retirement system may file an election with the staff of the retirement and investment office to transfer from the teachers' fund for retirement to the public employees retirement system. The teachers' fund for retirement shall certify the employees who are eligible to transfer. An election to transfer is irrevocable for as long as the employee remains employed with the superintendent of public instruction. The teachers' fund for retirement shall certify a transferring employee's salary, service credit, contribution history, account balance, and any other necessary information to the public employees retirement system. The amount to be transferred is the greater of the actuarial present value of the employee's accrued benefit as of July 1, 2003, plus interest at the rate of seven and one-half percent from July 1, 2003, until the date the amount is transferred to the public employees retirement system or the employee's account balance as of the date of transfer. The public employees retirement system shall credit the transferring employee with the service credit specified by the teachers' fund for retirement and shall convert the annual salary history from the teachers' fund for retirement to a monthly salary for the period. An employee becomes a member of the public employees retirement system as of the date the funds are transferred. To be eligible to transfer, an employee must be employed by the office of the superintendent of public instruction at the date of the transfer. The superintendent of public instruction shall begin making retirement contributions, and the public employees retirement system shall begin receiving those retirement contributions, on behalf of employees who have elected to transfer to the public employees retirement system to that system the first of the month following the date of transfer.

**SECTION 17. AMENDMENT.** Subsection 5 of section 54-52-17.4 of the North Dakota Century Code is amended and reenacted as follows:

5. A participating member, or a member not presently under covered employment, may request credit for qualified military service pursuant to the Uniformed Services Employment and Reemployment Rights Act of 1994 [Pub. L. 103-353; 108 Stat. 3150; 38 U.S.C. 4301-4307]. The member shall submit a qualified application with proof of eligible military service to the board in order to receive credit for military service. For credit on and after July 1, 1966, the member must pay four percent times the member's most recent monthly salary, times the number of months of credit being purchased, plus interest at a rate determined by the board. In addition, the governmental unit, or in the case of a member not under covered employment the last employing governmental unit, shall pay to the retiree health benefits fund established under section 54-52.1-03.2 ~~one percent~~ the percentage required by section 54-52.1-03.2 times the member's present monthly salary times the member's months of credit being purchased. For credit before July 1, 1966, no contribution is required.

**SECTION 18. AMENDMENT.** Subsection 1 of section 54-52.1-03.2 of the North Dakota Century Code is amended and reenacted as follows:

1. The board shall establish a retiree health benefits fund account with the Bank of North Dakota for the purpose of prefunding and providing hospital benefits coverage and medical benefits coverage under the uniform group insurance program for retired eligible employees or surviving spouses of retired eligible employees and their dependents as provided in this chapter. The state shall contribute monthly to the retiree health benefits fund an amount equal to one percent of the monthly salaries and wages of all participating members of the highway patrolmen's retirement system under chapter 39-03.1, and one percent of the monthly salaries of all supreme or district court judges who are participating members of the public employees retirement system under chapter 54-52. Each governmental unit that contributes to the public employees retirement system fund under section 54-52-06 or the retirement plan under chapter 54-52.6 shall contribute monthly to the retiree health benefits fund an amount equal to one percent of the monthly salaries or wages of all participating members of the public employees retirement system under chapter 54-52 or chapter 54-52.6, except for nonteaching employees of the superintendent of public instruction who elect to participate in the public employees retirement system pursuant to section 16 of this Act. For nonteaching employees of the superintendent of public instruction who elect to participate in the public employees retirement system pursuant to section 16 of this Act, the superintendent of public instruction shall contribute monthly to the retiree health benefits fund an amount equal to three and one-tenth percent of the monthly salary or wages of those nonteaching employee members, beginning on the first of the month following the transfer under section 16 of this Act and continuing thereafter for a period of eight years, after which time the superintendent of public instruction shall contribute one percent of the monthly salary or wages of those nonteaching employee members. The employer of a national guard security officer or firefighter shall contribute monthly to the retiree health benefits fund an amount equal to one percent of the monthly salaries or wages of all national guard security officers or firefighters participating in the public employees retirement system under chapter 54-52. Job service North Dakota shall reimburse monthly the retiree health benefits fund for credit received under section 54-52.1-03.3 by members of the retirement program established by job service North Dakota under section 52-11-01. The board, as trustee of the fund and in exclusive control of its administration, shall:
  - a. Provide for the investment and disbursement of moneys of the retiree health benefits fund and administrative expenditures in the same manner as moneys of the public employees retirement system are invested, disbursed, or expended.
  - b. Adopt rules necessary for the proper administration of the retiree health benefits fund, including enrollment procedures.

**SECTION 19. APPROPRIATION.** There is appropriated out of any moneys in the public employees retirement fund, not otherwise appropriated, the sum of \$3,000, or so much of the sum as may be necessary, to the public employees retirement system for the purpose of implementing sections 15 through 18 of this Act, for the biennium beginning July 1, 2003, and ending June 30, 2005.

**SECTION 20. EMERGENCY.** Sections 2 and 4 of this Act are declared to be an emergency measure.

\_\_\_\_\_  
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-eighth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2013 and that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote:      Yeas        47            Nays        0            Absent      0

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Secretary of the Senate

This certifies that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote:      Yeas        82            Nays        8            Absent      4

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
Chief Clerk of the House

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2003.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2003.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2003,

at \_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State