

Fifty-fifth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2016

Introduced by

Appropriations Committee

(At the request of the Governor)

1 A BILL for an Act to provide an appropriation for defraying the expenses of the department of
2 corrections and rehabilitation; to amend and reenact section 15-40.2-08 of the North Dakota
3 Century Code, relating to payment of tuition in cases of residential placements; and to declare
4 an emergency.

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

6 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the
7 funds as may be necessary, are hereby appropriated out of any moneys in the general fund in
8 the state treasury, not otherwise appropriated, and from special funds derived from federal
9 funds and other income, to the department of corrections and rehabilitation for the purpose of
10 defraying the expenses of its various divisions, for the biennium beginning July 1, 1997, and
11 ending June 30, 1999, as follows:

12 Subdivision 1.

13 CENTRAL OFFICE

14 Salaries and wages	\$ 798,494
15 Operating expenses	77,929
16 Equipment	<u>4,400</u>
17 Total all funds	\$ 880,823
18 Less estimated income	<u>98,899</u>
19 Total general fund appropriation	\$ 781,924

20 Subdivision 2.

21 JUVENILE SERVICES

22 Salaries and wages	\$ 8,708,389
23 Operating expenses	4,188,200
24 Equipment	102,879

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1	Capital improvements	573,000
2	Grants	1,280,000
3	Institutional medical fees	<u>50,000</u>
4	Total all funds	\$14,902,468
5	Less estimated income	<u>5,802,012</u>
6	Total general fund appropriation	\$ 9,100,456

7 Subdivision 3.

8 ADULT SERVICES

9	Salaries and wages	\$15,692,616
10	Operating expenses	13,258,931
11	Equipment	170,867
12	Capital improvements	1,010,650
13	Institutional medical fees	850,000
14	Victim services	1,904,399
15	Institutional offender services	321,991
16	Community offender services	<u>6,164,499</u>
17	Total all funds	\$39,373,953
18	Less estimated income	<u>4,860,222</u>
19	Total general fund appropriation	\$34,513,731

20 Subdivision 4.

21 ROUGHRIDER INDUSTRIES

22	Salaries and wages	\$ 2,427,773
23	Operating expenses	5,964,326
24	Equipment	221,000
25	Capital improvements	<u>50,000</u>
26	Total special funds	\$ 8,663,099
27	Grand total general fund appropriation S.B. 2016	\$44,396,111
28	Grand total special funds appropriation S.B. 2016	\$19,424,232
29	Grand total all funds appropriation S.B. 2016	\$63,820,343

1 **SECTION 2. TRANSFER AUTHORITY.** Upon approval of the budget section, the
2 director of the department of corrections and rehabilitation may transfer appropriation authority
3 contained in the various subdivisions in section 1 of this Act.

4 **SECTION 3. LINE ITEM TRANSFERS.** Upon approval of the emergency commission,
5 the department of corrections and rehabilitation may transfer between the victim services,
6 institutional offender services, and community offender services line items in subdivision 3 of
7 section 1 of this Act appropriation authority of up to ten percent of a given line item to adjust for
8 changing circumstances in meeting established performance measures. Any further transfers
9 must be approved by the budget section.

10 **SECTION 4. STATE PENITENTIARY LAND FUND.** The amount appropriated for
11 capital improvements in subdivisions 2 and 3 of section 1 of this Act includes \$382,300 and
12 \$490,400, respectively, which is from the North Dakota state penitentiary land fund for the
13 biennium beginning July 1, 1997, and ending June 30, 1999.

14 **SECTION 5. TRANSFERS BETWEEN LINE ITEMS.** The department of corrections
15 and rehabilitation may transfer and expend \$6,600,000, or so much of the sum as may be
16 necessary, from the operating expenses line item to the capital improvements line item in
17 subdivision 3 of section 1 of this Act.

18 **SECTION 6. TRANSFER OF FUNDS PROHIBITED.** No portion of the funds
19 appropriated to the foundation aid line item may be transferred to support the provision of
20 educational services by the youth correctional center.

21 **SECTION 7. ADDITIONAL INFORMATION.** Included in the program-based
22 performance budget appropriation for the line items victim services, institutional offender
23 services, and community offender services contained in subdivision 3 of section 1 of this Act is
24 anticipated funding for the following: \$4,359,087 for salaries and wages; \$2,261,174 for
25 operating expenses; \$35,000 for equipment; and \$1,735,628 for grants. These amounts are
26 provided for informational purposes only.

27 **SECTION 8. AMENDMENT.** Section 15-40.2-08 of the 1995 Supplement to the North
28 Dakota Century Code is amended and reenacted as follows:

29 **15-40.2-08. Residency determination and the payment of tuition in cases of child**
30 **placements for purposes other than education.**

- 1 1. For purposes of applying this chapter, the school district in which a child resides
2 must be construed to be the district of residence of such child:
 - 3 a. At the time an order of a state court, tribal court, or juvenile supervisor
4 requires such child to stay for any prescribed period at a state-licensed foster
5 home, or state-licensed child care home or facility;
 - 6 b. At the time of any placement for any prescribed period of time by a county or
7 state social service agency with the consent of the parent or guardian at a
8 state-licensed foster home, or state-licensed child care home or facility;
 - 9 c. At the time of a placement to or from a state-operated institution; or
 - 10 d. At the time of any voluntary admission to a state-licensed child care home or
11 facility or state-operated institution.
- 12 2. The district of residence shall be liable for:
 - 13 a. Tuition upon claim of the admitting district.
 - 14 b. Tutoring services upon claim of the admitting facility, provided that the
15 tutoring services are delivered by a certified and qualified teacher according
16 to rules established by the superintendent of public instruction.
- 17 3. Where the guardian, parent, or parents of the child were residents of the district at
18 the time of placement under subdivisions a through d of subsection 1, but such
19 guardian, parent, or both parents have subsequently moved to another school
20 district within North Dakota, then the tuition due the admitting district must be paid
21 by the district of residence of the guardian, parent, or parents. If the guardian,
22 parent, or parents have moved to another state, or if parental rights have been
23 terminated, then the tuition due the admitting district must be paid by the state from
24 funds appropriated by the legislative assembly for the foundation aid program.
- 25 4. In the event of a voluntary admission to any state-licensed child care home or
26 facility or state-operated institution, the determination of tuition may be subject to
27 an appeal filed with the county superintendent of schools. Within fifteen days, the
28 three-member committee referred to in section 15-40.2-05 shall consult with the
29 school boards of the districts concerned and with the parent or guardian of the
30 pupil concerned and render a decision in regard to the tuition charges.

- 1 5. If the district of residence does not pay the required tuition, the admitting district or
2 facility shall notify the superintendent of public instruction, and upon verification
3 that such tuition payments are in fact due and are unpaid, an amount equal to the
4 unpaid tuition must be withheld from payments for foundation aid to the district of
5 residence of the pupil until the tuition due has been fully paid.
- 6 6. An amount equal to the state average per student elementary or high school costs,
7 depending on the educational level of the student, is payable to the admitting
8 district or facility as part of the cost of educating the student for the school year.
9 The payment may not exceed the actual per student cost incurred by the admitting
10 district or facility. The remainder of the actual cost of educating the student not
11 covered by other payments or credits must be paid by the state from funds
12 appropriated for special education in the case of a student with disabilities, or from
13 funds appropriated for foundation aid in all other cases within the limits of
14 legislative appropriations.
- 15 7. If a student with disabilities, who is placed in accordance with the provisions of this
16 section, reaches the age of majority and continues to receive special education
17 and related services, the district of residence remains the same as that of the
18 student's guardian, parent, or parents until the special education services are
19 concluded.
- 20 8. a. The placement agency shall provide written notice by registered mail of a
21 placement made under court order or in an emergency to the superintendent
22 of the district of residence and the superintendent of the admitting district
23 within five working days after the placement.
- 24 b. Except as provided in subdivision a, the placement agency shall provide
25 written notice by registered mail of a placement to the superintendent of the
26 district of residence and the superintendent of the admitting district at least
27 ten working days before the placement.
- 28 c. The placement agency shall afford the district of residence reasonable
29 opportunity to participate in permanency planning for the child.
- 30 9. Notwithstanding the provisions of this section, educational services provided to a
31 student by the youth correctional center are not subject to the payment of tuition by

1 either the student's school district of residence or the superintendent of public
2 instruction.

3 **SECTION 9. EMERGENCY.** Section 5 of this Act is declared to be an emergency
4 measure.