

**FIRST ENGROSSMENT  
with House Amendments**

Fifty-eighth  
Legislative Assembly  
of North Dakota

**ENGROSSED SENATE BILL NO. 2013**

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

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

13 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the  
14 funds as may be necessary, are appropriated out of any moneys in the general fund in the state  
15 treasury, not otherwise appropriated, and from special funds derived from federal funds and  
16 other income, to the department of public instruction, the school for the deaf, North Dakota  
17 vision services - school for the blind, and the state library for the purpose of defraying the  
18 expenses of these agencies, for the biennium beginning July 1, 2003, and ending June 30,  
19 2005, as follows:

20 Subdivision 1.

**DEPARTMENT OF PUBLIC INSTRUCTION**

22	Salaries and wages	\$9,277,686
23	Operating expenses	12,923,270
24	Capital assets	15,000



1	Total general fund appropriation	\$2,086,238
2	Grand total general fund appropriation section 1 of S.B. 2013	\$609,196,082
3	Grand total special funds appropriation section 1 of S.B. 2013	\$269,730,339
4	Grand total all funds appropriation section 1 of S.B. 2013	\$878,926,421

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

9           **SECTION 3. APPROPRIATION - TUITION APPORTIONMENT.** The sum of  
10 \$69,495,371, included in the grants - tuition apportionment line item in subdivision 1 of  
11 section 1 of this Act, is from the state tuition fund in the state treasury. Any additional amount  
12 in the state tuition fund that becomes available for distribution to public schools is appropriated  
13 to the department of public instruction for that purpose for the biennium beginning July 1, 2003,  
14 and ending June 30, 2005.

15           **SECTION 4. EXEMPTION.** The appropriation contained in subdivision 1 of section 1 of  
16 chapter 13 of the 2001 Session Laws is not subject to the provisions of section 54-44.1-11 for  
17 an amount of up to \$105,000, and this amount may be used by the department of public  
18 instruction in conjunction with special funds received by the department for the purpose of  
19 providing a grant to fund the north central council of school television's licensing of educational  
20 television programs for classroom use by North Dakota elementary and secondary schools.

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

26           **SECTION 6. STATE SCHOOL AID AND SPECIAL EDUCATION EXPENDITURE**

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

1           **SECTION 7. DISTRIBUTION OF SPECIAL EDUCATION AID.** The sum of  
2 \$49,898,695, included in the grants - special education line item in subdivision 1 of section 1 of  
3 this Act, must be distributed as follows:

- 4           1. Thirteen million dollars to reimburse school districts or special education units for  
5 excess costs incurred relating to contracts for students with disabilities.
- 6           2. Four hundred thousand dollars to reimburse school districts or special education  
7 units for gifted and talented programs upon the submission of an application that is  
8 approved in accordance with guidelines adopted by the superintendent of public  
9 instruction. The superintendent of public instruction shall encourage cooperative  
10 efforts for gifted and talented programs among school districts and special  
11 education units.
- 12          3. Any amount remaining in the line item must be distributed on a per student basis  
13 as required by section 15.1-27-10, excluding reimbursements for student contracts  
14 and gifted and talented programs. State special education payments distributed as  
15 required by section 15.1-27-10 must be reduced by the amount of matching funds  
16 required to be paid by school districts or special education units for students  
17 participating in the medicaid program. Special education funds equal to the  
18 amount of the matching funds required to be paid by the school district or special  
19 education unit must be paid by the superintendent of public instruction to the  
20 department of human services on behalf of the school district or unit.

21           **SECTION 8. PAYMENTS FOR LIMITED ENGLISH PROFICIENT STUDENTS.**

22 Payments to school districts educating limited English proficient students, as provided in  
23 section 15.1-27-12, must be made by the superintendent of public instruction during the  
24 biennium beginning July 1, 2003, and ending June 30, 2005, using up to \$650,000 of the  
25 amount included in the grants - state school aid line item in subdivision 1 of section 1 of this  
26 Act.

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

30           **SECTION 10. DISPLACED HOMEMAKER FUND.** The sum of \$251,747, included in  
31 the estimated income line item in subdivision 1 of section 1 of this Act, is from the displaced

1 homemaker fund and must be used by the superintendent of public instruction for the purpose  
2 of providing services for displaced homemakers, as provided in chapter 14-06.1, during the  
3 biennium beginning July 1, 2003, and ending June 30, 2005.

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

7 **SECTION 12. FEES DEPOSITED IN VISION SERVICES - SCHOOL FOR THE BLIND**  
8 **OPERATING FUND.** Any moneys included in the estimated income line item in subdivision 4  
9 of section 1 of this Act, collected for subscription fees or Braille fees, must be deposited in the  
10 North Dakota vision services - school for the blind operating fund in the state treasury and may  
11 be spent subject to appropriation by the legislative assembly.

12 **SECTION 13. LEGISLATIVE INTENT - NO CHILD LEFT BEHIND ACT.** It is the intent  
13 of the legislative assembly that the department of public instruction have a primary focus of  
14 being an advocate and facilitator for those schools having difficulty complying or those not in  
15 compliance with the federal mandates contained in the federal No Child Left Behind Act, and  
16 the department seek to promulgate the most flexible interpretation of the No Child Left Behind  
17 Act to assist public schools in this state.

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

20 3. A person, except the superintendent of public instruction, who is certified to teach  
21 in this state by the education standards and practices board and who is first  
22 employed and entered upon the payroll of the superintendent of public instruction  
23 after January 6, 2001, may elect to become a participating member of the public  
24 employees retirement system. An election made by a person to participate in the  
25 public employees retirement system under this subsection is irrevocable.

26 Nonteaching employees of the superintendent of public instruction, including the  
27 superintendent of public instruction, may elect to transfer to the public employees  
28 retirement system pursuant to section 16 of this Act.

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

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

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

17           **Participation by nonteaching employees of the office of the superintendent of**  
18 **public instruction.** Notwithstanding any other provision of law, between the effective date of  
19 this Act and five o'clock p.m. on August 29, 2003, a nonteaching employee of the  
20 superintendent of public instruction, including the superintendent of public instruction, who is  
21 otherwise eligible to participate in the public employees retirement system may file an election  
22 with the staff of the retirement and investment office to transfer from the teachers' fund for  
23 retirement to the public employees retirement system. The teachers' fund for retirement shall  
24 certify the employees who are eligible to transfer. An election to transfer is irrevocable for as  
25 long as the employee remains employed with the superintendent of public instruction. The  
26 teachers' fund for retirement shall certify a transferring employee's salary, service credit,  
27 contribution history, account balance, and any other necessary information to the public  
28 employees retirement system. The amount to be transferred is the greater of the actuarial  
29 present value of the employee's accrued benefit as of July 1, 2003, plus interest at the rate of  
30 seven and one-half percent from July 1, 2003, until the date the amount is transferred to the  
31 public employees retirement system or the employee's account balance as of the date of

1 transfer. The public employees retirement system shall credit the transferring employee with  
2 the service credit specified by the teachers' fund for retirement and shall convert the annual  
3 salary history from the teachers' fund for retirement to a monthly salary for the period. An  
4 employee becomes a member of the public employees retirement system as of the date the  
5 funds are transferred. To be eligible to transfer, an employee must be employed by the office  
6 of the superintendent of public instruction at the date of the transfer. The superintendent of  
7 public instruction shall begin making retirement contributions, and the public employees  
8 retirement system shall begin receiving those retirement contributions, on behalf of employees  
9 who have elected to transfer to the public employees retirement system to that system the first  
10 of the month following the date of transfer.

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

13 5. A participating member, or a member not presently under covered employment,  
14 may request credit for qualified military service pursuant to the Uniformed Services  
15 Employment and Reemployment Rights Act of 1994 [Pub. L. 103-353; 108 Stat.  
16 3150; 38 U.S.C. 4301-4307]. The member shall submit a qualified application with  
17 proof of eligible military service to the board in order to receive credit for military  
18 service. For credit on and after July 1, 1966, the member must pay four percent  
19 times the member's most recent monthly salary, times the number of months of  
20 credit being purchased, plus interest at a rate determined by the board. In  
21 addition, the governmental unit, or in the case of a member not under covered  
22 employment the last employing governmental unit, shall pay to the retiree health  
23 benefits fund established under section 54-52.1-03.2 ~~one percent~~ the percentage  
24 required by section 54-52.1-03.2 times the member's present monthly salary times  
25 the member's months of credit being purchased. For credit before July 1, 1966, no  
26 contribution is required.

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

29 1. The board shall establish a retiree health benefits fund account with the Bank of  
30 North Dakota for the purpose of prefunding and providing hospital benefits  
31 coverage and medical benefits coverage under the uniform group insurance

1 program for retired eligible employees or surviving spouses of retired eligible  
2 employees and their dependents as provided in this chapter. The state shall  
3 contribute monthly to the retiree health benefits fund an amount equal to one  
4 percent of the monthly salaries and wages of all participating members of the  
5 highway patrolmen's retirement system under chapter 39-03.1, and one percent of  
6 the monthly salaries of all supreme or district court judges who are participating  
7 members of the public employees retirement system under chapter 54-52. Each  
8 governmental unit that contributes to the public employees retirement system fund  
9 under section 54-52-06 or the retirement plan under chapter 54-52.6 shall  
10 contribute monthly to the retiree health benefits fund an amount equal to one  
11 percent of the monthly salaries or wages of all participating members of the public  
12 employees retirement system under chapter 54-52 or chapter 54-52.6, except for  
13 nonteaching employees of the superintendent of public instruction who elect to  
14 participate in the public employees retirement system pursuant to section 16 of this  
15 Act. For nonteaching employees of the superintendent of public instruction who  
16 elect to participate in the public employees retirement system pursuant to  
17 section 16 of this Act, the superintendent of public instruction shall contribute  
18 monthly to the retiree health benefits fund an amount equal to three and one-tenth  
19 percent of the monthly salary or wages of those nonteaching employee members,  
20 beginning on the first of the month following the transfer under section 16 of this  
21 Act and continuing thereafter for a period of eight years, after which time the  
22 superintendent of public instruction shall contribute one percent of the monthly  
23 salary or wages of those nonteaching employee members. The employer of a  
24 national guard security officer or firefighter shall contribute monthly to the retiree  
25 health benefits fund an amount equal to one percent of the monthly salaries or  
26 wages of all national guard security officers or firefighters participating in the public  
27 employees retirement system under chapter 54-52. Job service North Dakota  
28 shall reimburse monthly the retiree health benefits fund for credit received under  
29 section 54-52.1-03.3 by members of the retirement program established by job  
30 service North Dakota under section 52-11-01. The board, as trustee of the fund  
31 and in exclusive control of its administration, shall:



- 1           a.    Provide for the investment and disbursement of moneys of the retiree health  
2                    benefits fund and administrative expenditures in the same manner as moneys  
3                    of the public employees retirement system are invested, disbursed, or  
4                    expended.
- 5           b.    Adopt rules necessary for the proper administration of the retiree health  
6                    benefits fund, including enrollment procedures.

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

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