

FIRST ENGROSSMENT - MAJORITY REPORT  
with House Amendments

Fifty-sixth  
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, the school for the blind, and the state library; to  
3 create and enact a new section to chapter 15-59 of the North Dakota Century Code, relating to  
4 a special education critical needs board; to amend and reenact sections 15-21-02 and 15-21-03  
5 of the North Dakota Century Code or in the alternative to amend and reenact sections  
6 15.1-02-02 and 15.1-02-03 of the North Dakota Century Code, relating to the salary of the  
7 superintendent of public instruction and the appointment of a deputy superintendent; and to  
8 amend and reenact sections 15-59-06, 15-59-06.2, and 15-59-07 of the North Dakota Century  
9 Code, relating to special education.

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

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

18 Subdivision 1.

19 DEPARTMENT OF PUBLIC INSTRUCTION

20 Salaries and wages	\$10,977,979
21 Operating expenses	9,709,720
22 Equipment	491,036
23 Grants - Foundation aid and transportation	479,006,259
24 Grants - Revenue supplement payments	3,100,000

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1	Grants - Tuition apportionment	53,528,217
2	Grants - Special education	46,100,000
3	Grants - Special education critical needs board	500,000
4	Grants - Other grants	143,318,663
5	Geographic education	50,000
6	SENDIT network	546,669
7	National board certification	<u>20,000</u>
8	Total all funds	\$747,348,543
9	Less estimated income	<u>204,206,898</u>
10	Total general fund appropriation	\$543,141,645

11 Subdivision 2.

12 STATE LIBRARY

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

20 Subdivision 3.

21 SCHOOL FOR THE DEAF

22	Salaries and wages	\$4,275,930
23	Operating expenses	1,015,458
24	Equipment	74,824
25	Capital improvements	<u>36,327</u>
26	Total all funds	\$5,402,539
27	Less estimated income	<u>657,369</u>
28	Total general fund appropriation	\$4,745,170

29 Subdivision 4.

30 SCHOOL FOR THE BLIND

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1	Salaries and wages	\$2,391,456
2	Operating expenses	678,059
3	Equipment	70,500
4	Capital improvements	<u>51,790</u>
5	Total all funds	\$3,191,805
6	Less estimated income	<u>950,276</u>
7	Total general fund appropriation	\$2,241,529
8	Grand total general fund appropriation S.B. 2013	\$553,091,255
9	Grand total special funds appropriation S.B. 2013	\$207,408,362
10	Grand total all funds appropriation S.B. 2013	\$760,499,617

11           **SECTION 2. APPROPRIATION - TUITION APPORTIONMENT.** The sum of  
12 \$53,528,217, or such greater or lesser sums as become available, included in the grants -  
13 tuition apportionment and estimated income line items in subdivision 1 of section 1 of this Act,  
14 are hereby appropriated to the department of public instruction out of any moneys in the state  
15 tuition fund in the state treasury to the public schools of this state as provided in section 2 of  
16 article IX of the Constitution of North Dakota and chapter 15-44 for the biennium beginning  
17 July 1, 1999, and ending June 30, 2001.

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

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

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

- 1           1.   Eleven million dollars to reimburse school districts or special education units for  
2                    excess costs incurred relating to contracts for students with disabilities and for  
3                    boarding care reimbursements.
- 4           2.   Four hundred thousand dollars to reimburse school districts or special education  
5                    units for gifted and talented programs upon the submission of an application that is  
6                    approved in accordance with guidelines adopted by the superintendent of public  
7                    instruction. The superintendent of public instruction shall encourage cooperative  
8                    efforts for gifted and talented programs among school districts and special  
9                    education units.
- 10          3.   Any amount remaining in the grants - special education line item must be  
11                   distributed on a per student basis as required by section 15-40.1-07.6, excluding  
12                   reimbursements for student contracts, boarding care, and gifted and talented  
13                   programs. State special education payments distributed as required by section  
14                   15-40.1-07.6 must be reduced by the amount of matching funds required to be  
15                   paid by school districts or special education units for students participating in the  
16                   medicaid program. Special education funds equal to the amount of the matching  
17                   funds required to be paid by the school district or special education unit must be  
18                   paid by the superintendent of public instruction to the department of human  
19                   services on behalf of the school district or unit.

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

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

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

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

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

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

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

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

28           **SECTION 14. FUNDING FOR LEADERSHIP IN EDUCATIONAL ADMINISTRATION**  
29 **DEVELOPMENT CONSORTIUM AND TEACHER CENTER NETWORK.** The grants - other  
30 grants line item in subdivision 1 of section 1 of this Act includes \$200,000 from the state

1 general fund for grants to the leadership in educational administration development consortium  
2 and \$210,000 from the state general fund for grants to the teacher center network.

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

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

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

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

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

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

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

24           **15-21-02. Salary and traveling expenses.** The annual salary of the superintendent of  
25 public instruction is ~~forty-six~~ fifty-nine thousand five hundred sixty-eight ~~thirty-seven~~ dollars  
26 through June 30, ~~1998~~ 2000, ~~sixty thousand six hundred twenty-six~~ dollars through  
27 December 31, 2000, and ~~fifty-eight~~ sixty-seven thousand two hundred seventy-two ~~nineteen~~  
28 dollars thereafter. The superintendent is also entitled to reimbursement for expenses incurred  
29 in the discharge of official duties, such expenses to be paid monthly on a warrant prepared by  
30 the office of management and budget and signed by the state auditor, upon the filing of an  
31 itemized and verified statement of expenses.

1           **SECTION 22. AMENDMENT.** Section 15.1-02-02 of the North Dakota Century Code  
2 as created by House Bill No. 1034, as approved by the fifty-six legislative assembly, is  
3 amended and reenacted as follows:

4           **15.1-02-02. Salary ~~and traveling expenses.~~** The annual salary of the superintendent  
5 of public instruction is ~~fifty-eight~~ fifty-nine thousand ~~two~~ four hundred ~~seventy-two~~ thirty-seven  
6 dollars through June 30, 2000, sixty thousand six hundred twenty-six dollars through  
7 December 31, 2000, and sixty-seven thousand six hundred nineteen dollars thereafter.

8           **SECTION 23. AMENDMENT.** If House Bill No. 1034 does not become effective,  
9 Section 15-21-03 of the North Dakota Century Code is amended and reenacted as follows:

10           **15-21-03. Appointment of ~~deputy~~ Assistant - Clerks.** The  
11 superintendent of public instruction may appoint ~~a deputy for whose official acts he is~~  
12 ~~responsible, and~~ an assistant whose duty it is to assist the superintendent of public instruction  
13 in visiting schools and institutes, to attend school officers' meetings, and to perform such other  
14 duties as may be required of him. The superintendent also may employ such clerks as are  
15 necessary in carrying on the work of the department.

16           **SECTION 24. AMENDMENT.** Section 15.1-02-03 of the North Dakota Century Code  
17 as created by House Bill No. 1034, as approved by the fifty-sixth legislative assembly, is  
18 amended and reenacted as follows:

19           **15.1-02-03. Appointment of ~~deputy~~ assistant - Employment of personnel.** The  
20 superintendent of public instruction may appoint ~~a deputy superintendent and~~ an assistant.  
21 The superintendent may also hire personnel or contract with other persons to perform the work  
22 of the department of public instruction.

23           **SECTION 25. AMENDMENT.** Section 15-59-06 of the 1997 Supplement to the North  
24 Dakota Century Code is amended and reenacted as follows:

25           **15-59-06. State cooperation in special education.** Students with disabilities who are  
26 receiving special education services must be deemed to be regularly enrolled in the school  
27 district of residence and must be included in the determination of payments from the state  
28 foundation aid program whether or not the students regularly attend school in the school or  
29 school district receiving the payments. A prorated state foundation aid payment for a student to  
30 attend a public school program for students with disabilities, approved by the superintendent of  
31 public instruction, may be made if the individualized education program for the student is



1 written during the last quarter of the school term and specifically requires that the student  
2 attend a summer special education program. In the case of a student who is enrolled in a  
3 nonpublic school but who attends a public school special education program, payments must  
4 be made to the appropriate public school district for the portion of a normal schoolday the  
5 student participates in special education. For the purposes of this section, a normal schoolday  
6 consists of six hours. The amount the school district is required to expend must be reduced  
7 proportionately if a student attends the school for less than an entire year. If any school district  
8 within a special education unit has a student with disabilities who, in the opinion of the student's  
9 multidisciplinary team, is unable to attend the public schools in the special education unit  
10 because of a disability, the school district shall contract with an in-state public school located  
11 outside the special education unit in which the student is a legal resident, if the school will  
12 accept the student and has proper services for the student's education. No school district may  
13 enter into a contract with any in-state public school for the education of any student because of  
14 a disability, unless the services provided by the school and the contract have been approved in  
15 advance by the superintendent of public instruction. The contract must provide that the school  
16 district agrees to pay to the in-state public school as part of the cost of educating the student an  
17 amount for the school year equal to ~~two and one-half~~ three times the state average per student  
18 elementary or high school cost, depending upon the student's level of enrollment. The payment  
19 may not exceed the actual per student cost incurred by the in-state public school. The school  
20 district's liability must be reduced proportionately if the student attends the in-state public  
21 school for less than an entire year. The superintendent of public instruction, upon notification  
22 by the admitting district and upon verification by the superintendent that tuition payments are  
23 due the admitting district and are unpaid, shall withhold ~~all payments from the state for~~  
24 foundation aid payments to the district of residence an amount equal to the unpaid tuition until  
25 ~~the tuition due~~ that amount has been paid. The transportation must be furnished as provided  
26 by rules of the superintendent of public instruction. The superintendent of public instruction  
27 shall reimburse school districts eighty percent of the remainder of the actual cost of educating  
28 the student with disabilities not covered by other payments or credits ~~must be paid from funds,~~  
29 within the limits of legislative appropriations for that purpose.

30 **SECTION 26. AMENDMENT.** Section 15-59-06.2 of the North Dakota Century Code is  
31 amended and reenacted as follows:

1           **15-59-06.2. Cost of special education - Liability of school district.** If allowable  
2 costs for special education and related services for a child with disabilities in a special  
3 education program, as determined by the superintendent of public instruction, exceed the  
4 reimbursement provided by the state, the school district is liable to pay for each such student  
5 an amount over the state reimbursement up to a maximum each school year of ~~two and~~  
6 ~~one-half~~ three times the state average ~~per pupil~~ per student elementary or high school cost,  
7 depending on whether the enrollment would be in a grade or high school department, and  
8 twenty percent of all remaining costs. The ~~two and one-half~~ three times amount includes the  
9 amount the school district is required to pay in section 15-59-06. The state is liable for ~~one~~  
10 ~~hundred~~ eighty percent of the remainder of the cost of education and related services for each  
11 such student with disabilities within the limits of legislative appropriations for that purpose.

12           **SECTION 27. AMENDMENT.** Section 15-59-07 of the 1997 Supplement to the North  
13 Dakota Century Code is amended and reenacted as follows:

14           **15-59-07. Contracts for students with disabilities to attend private or out-of-state**  
15 **public schools.** If any school district in this state has a student with disabilities who in the  
16 opinion of the student's multidisciplinary team is unable to attend the public schools in the  
17 district because of a physical or mental disability or because of a learning disability, the school  
18 district shall contract with any accredited private nonsectarian nonprofit corporation within or  
19 outside the state or an out-of-state public school which has proper facilities for the education of  
20 the student, if there is no public school in the state which has the necessary services and which  
21 will accept the student. No school district may enter a contract with any private nonsectarian  
22 nonprofit corporation or out-of-state public school for the education of any student having a  
23 physical or learning disability, unless the services provided by the school and the contract have  
24 been approved in advance by the superintendent of public instruction. The contract must  
25 provide that the school district agrees to pay to the private nonsectarian nonprofit corporation or  
26 the out-of-state public school as part of the cost of educating the student an amount for the  
27 school year equal to ~~two and one-half~~ three times the state average per student elementary or  
28 high school cost, depending upon the student's level of enrollment and twenty percent of all  
29 remaining costs. The payment may not exceed the actual per student cost incurred by the  
30 private nonsectarian nonprofit corporation or out-of-state public school. The transportation  
31 must be furnished and reimbursed as provided by rules of the superintendent of public

1 instruction. ~~The remainder of the actual cost of educating the student with disabilities not~~  
2 ~~covered by other payments or credits must be paid from funds appropriated by the legislative~~  
3 ~~assembly for special education notwithstanding limitations cited in section 15-59-06. The~~  
4 superintendent of public instruction shall reimburse school districts eighty percent of the  
5 remainder of the actual cost of educating each student with disabilities not covered by other  
6 payments or credit within the limits of legislative appropriations for that purpose. The district of  
7 residence is entitled to the per student foundation payment.

8 **SECTION 28.** A new section to chapter 15-59 of the North Dakota Century Code is  
9 created and enacted as follows:

10 **Special education critical needs board - Creation - Membership - Purpose.**

- 11 1. The superintendent of public instruction shall establish a special education critical  
12 needs board, as provided in this section.
- 13 2. The superintendent shall establish five regions of the state based on student  
14 population in each region.
- 15 3. The critical needs board consists of seven members: five members representing  
16 special education units, one from each of the five regions as established under  
17 subsection 2; one member representing the department of public instruction; and  
18 one member representing the disability services division of the department of  
19 human services.
- 20 4. Members of the critical needs board are eligible to receive reimbursement from the  
21 department of public instruction for necessary travel and expenses incurred in  
22 attending meetings of the board equal to the amounts provided for state officials  
23 pursuant to sections 44-08-04 and 54-06-09.
- 24 5. The superintendent shall adopt rules and develop application forms for the  
25 distribution of funds appropriated by the legislative assembly for distribution by the  
26 critical needs board to school districts.
- 27 6. School districts that meet the following criteria are eligible to receive funding from  
28 the critical needs board:
  - 29 a. The school district has incurred extraordinary expenditures, as defined by the  
30 superintendent, to educate students with disabilities.

- 1            b. The extraordinary expenditures incurred by the school district have had a  
2            significant impact on the district's ability to provide education services,  
3            resulting in critical needs.
- 4            c. The district is not eligible to receive funding to address critical needs through  
5            any other state program for the support of special education services.