

**FIRST ENGROSSMENT
with Conference Committee Amendments**

Fifty-fifth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1013

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 two new sections to chapter 15-34.1 of the North Dakota Century Code,
4 relating to home schooling for children with autism; to amend and reenact sections 15-21-02,
5 25-01-03, 54-24-01, and subsection 3 of section 54-44.3-20 of the North Dakota Century Code,
6 relating to the salary of the superintendent of public instruction and to the classified status of
7 the superintendent of the school for the blind, the superintendent of the school for the deaf, and
8 the state librarian; to provide an expiration date; and to declare an emergency.

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

10 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the
11 funds as may be necessary, are hereby appropriated out of any moneys in the general fund in
12 the state treasury, not otherwise appropriated, and from special funds derived from federal
13 funds and other income, to the department of public instruction, the school for the deaf, the
14 school for the blind, and the state library for the purpose of defraying the expenses of their
15 various divisions, for the biennium beginning July 1, 1997, and ending June 30, 1999, as
16 follows:

17 Subdivision 1.

18 **DEPARTMENT OF PUBLIC INSTRUCTION**

19 Salaries and wages	\$ 10,872,941
20 Operating expenses	8,704,612
21 Equipment	768,920
22 Grants - foundation aid and transportation	466,356,259
23 Grants - revenue supplement payments	3,100,000
24 Grants - tuition apportionment	49,273,144

Fifty-fifth
Legislative Assembly

1	Grants - special education	40,550,000
2	Grants - goals 2000	2,600,000
3	Grants - other grants	123,940,847
4	Grants - technology reimbursement payments	5,000,000
5	Grants - SENDIT	876,000
6	Grants - geographic education	<u>50,000</u>
7	Total all funds	\$712,092,723
8	Less estimated income	<u>187,229,971</u>
9	Total general fund appropriation	\$524,862,752

10 Subdivision 2.

11 STATE LIBRARY

12	Salaries and wages	\$ 1,958,201
13	Operating expenses	1,041,033
14	Equipment	22,500
15	Grants	<u>1,135,521</u>
16	Total all funds	\$ 4,157,255
17	Less estimated income	<u>1,355,562</u>
18	Total general fund appropriation	\$ 2,801,693

19 Subdivision 3.

20 SCHOOL FOR THE DEAF

21	Salaries and wages	\$ 4,064,385
22	Operating expenses	913,958
23	Equipment	100,000
24	Capital improvements	<u>25,000</u>
25	Total all funds	\$ 5,103,343
26	Less estimated income	<u>531,878</u>
27	Total general fund appropriation	\$ 4,571,465

28 Subdivision 4.

29 SCHOOL FOR THE BLIND

30	Salaries and wages	\$ 2,177,856
31	Operating expenses	652,154

1	Equipment	81,900
2	Capital improvements	<u>394,075</u>
3	Total all funds	\$ 3,305,985
4	Less estimated income	<u>957,067</u>
5	Total general fund appropriation	\$ 2,348,918
6	Grand total general fund appropriation H.B. 1013	\$534,584,828
7	Grand total special funds appropriation H.B. 1013	\$190,074,478
8	Grand total all funds appropriation H.B. 1013	\$724,659,306

9 **SECTION 2. LEGISLATIVE INTENT - TUITION APPORTIONMENT.** It is the intent of
10 the legislative assembly that the sum of \$49,273,144, or such greater or lesser sums as
11 become available, included in the grants-tuition apportionment and estimated income line items
12 in subdivision 1 of section 1 of this Act, be distributed by the office of management and budget
13 out of any moneys in the state tuition fund in the state treasury to the public schools of this
14 state as provided in section 2 of article IX of the Constitution of North Dakota and chapter 15-44
15 for the biennium beginning July 1, 1997, and ending June 30, 1999.

16 **SECTION 3. LEGISLATIVE INTENT - EXPENDITURE AUTHORITY.** The
17 superintendent of public instruction may expend funds appropriated in the foundation aid and
18 transportation and special education grants line items in subdivision 1 of section 1 of this Act in
19 payment of grants for education services that were due in the 1995-97 biennium but which
20 were not filed, claimed, or properly supported by the education provider in question until after
21 June 30, 1997.

22 **SECTION 4. LEGISLATIVE INTENT - DISTRIBUTION OF SPECIAL EDUCATION**
23 **AID.** It is the intent of the legislative assembly that the amount included in the grants - special
24 education line item in subdivision 1 of section 1 of this Act be distributed as follows:
25 1. Ten million dollars to reimburse school districts or special education units for
26 excess costs incurred relating to contracts for students with disabilities as required
27 in sections 15-40.2-08, 15-59-06, and 15-59-07, and for boarding care
28 reimbursements as required in section 15-59-07.2.
29 2. Four hundred thousand dollars to reimburse school districts or special education
30 units for gifted and talented programs upon the submission of an application that is
31 approved in accordance with guidelines adopted by the superintendent of public

1 instruction. The superintendent of public instruction shall encourage cooperative
2 efforts for gifted and talented programs among school districts and special
3 education units.

4 3. Any amount remaining in the line item must be distributed on a per student basis
5 as required by section 15-40.1-07.6, except that during each of the school years of
6 the biennium a school district or special education unit may not receive less than
7 ninety percent of the amount received during the 1993-94 school year from state
8 special education funds, excluding reimbursements for student contracts, boarding
9 care, and gifted and talented programs. State special education payments
10 distributed as required by section 15-40.1-07.6 must be reduced by the amount of
11 matching funds required to be paid by school districts or special education units for
12 students participating in the medicaid program. Special education funds equal to
13 the amount of the matching funds required to be paid by the school district or
14 special education unit must be paid by the superintendent of public instruction to
15 the department of human services on behalf of the district or unit.

16 **SECTION 5. LEGISLATIVE INTENT - GRANTS FOR SENDIT.** It is the intent of the
17 fifty-fifth legislative assembly that the funds appropriated in subdivision 1 of section 1 of this Act
18 for grants to the SENDIT network be distributed by the educational telecommunications council
19 to support the electronic connectivity and networking of schools through the SENDIT network.

20 **SECTION 6. LEGISLATIVE INTENT - TECHNOLOGY REIMBURSEMENT**
21 **PAYMENTS.** It is the intent of the fifty-fifth legislative assembly that the funds appropriated in
22 subdivision 1 of section 1 of this Act for technology reimbursement payments be used for
23 reimbursing school districts for technology-related expenditures. The educational
24 telecommunications council shall determine the maximum amount to which each school district
25 is entitled by dividing the number of elementary and secondary students in average daily
26 membership in this state into the funds appropriated in subdivision 1 of section 1 of this Act for
27 technology reimbursement payments and then multiplying the result by the number of students
28 in average daily membership in each district. Upon receiving substantiating documentation
29 from a school district indicating the expenditure of funds on or after July 1, 1996, for the
30 acquisition of computer technology for student uses or instructional purposes, interactive
31 television, or teacher inservice programs related to the use of computer technology in

1 classroom instruction, the educational telecommunications council shall provide reimbursement
2 to the school district in an amount equal to that expended but not exceeding that to which the
3 school district is entitled.

4 **SECTION 7. LEGISLATIVE INTENT - MEAT IN SCHOOL LUNCH PROGRAMS.** It is
5 the intent of the fifty-fifth legislative assembly that the superintendent of public instruction
6 encourage school boards operating or providing for the operation of child nutrition and food
7 distribution programs in schools to not offer yogurt as a substitute for meat in school lunches
8 served to students.

9 **SECTION 8. LEGISLATIVE INTENT - DIVISION OF INDEPENDENT STUDY TUITION**
10 **RATES.** It is the intent of the fifty-fifth legislative assembly that during the 1997-99 biennium,
11 the division of independent study review the tuition rates charged for resident and nonresident
12 students enrolled in independent study courses and consider increasing the tuition rate charged
13 nonresident students.

14 **SECTION 9. LEGISLATIVE INTENT - POSITION TRANSFERS.** It is the intent of the
15 fifty-fifth legislative assembly that for the 1997-99 biennium, the department of public instruction
16 be authorized to have no more than 135.45 full-time equivalent positions and that no more than
17 39.2 of these positions be in the division of independent study. It is the intent of the fifty-fifth
18 legislative assembly that if, during the 1997-99 biennium, the superintendent of public
19 instruction transfers any positions to the division of independent study from other divisions of
20 the department of public instruction, the transfers be reported to the budget section of the
21 legislative council at its next meeting.

22 **SECTION 10. LEGISLATIVE INTENT - GRANT TO LEADERSHIP IN EDUCATION**
23 **ADMINISTRATION CONSORTIUM - REPORT TO LEGISLATIVE COUNCIL COMMITTEE.** It
24 is the intent of the fifty-fifth legislative assembly that \$25,000 of the amount appropriated in the
25 grants - other grants line item in subdivision 1 of section 1 of this Act be used to provide a grant
26 to the leadership in education administration consortium to develop training programs in
27 cooperation with teacher learning centers. It is the intent of the fifty-fifth legislative assembly
28 that the leadership in education administration consortium and the teacher learning centers
29 work cooperatively to develop training programs for teachers and education administrators.
30 The leadership in education administration consortium shall present, no later than
31 September 30, 1998, a report to the legislative council or its designated committee on training

1 programs for teachers and education administrators developed in cooperation with the teacher
2 learning centers.

3 **SECTION 11. PAYMENTS FOR LIMITED ENGLISH PROFICIENT STUDENTS.**

4 Notwithstanding section 2 of Senate Bill No. 2029 as passed by the fifty-fifth legislative
5 assembly, payments to school districts educating limited English proficient students, as
6 provided by that bill, must be paid from up to \$300,000 of the amount appropriated in
7 subdivision 1 of section 1 of this Act for grants - foundation aid and transportation.

8 **SECTION 12. CREDENTIALING PROCESS FOR SPECIAL EDUCATION**

9 **TEACHERS.** The superintendent of public instruction may not change the credentialing
10 process for special education teachers as it is in effect on March 1, 1997, without first
11 convening a meeting to include representatives of the council of educational leaders, the
12 council for exceptional children, the North Dakota education association, and the North Dakota
13 school boards association. The purpose of the meeting is to receive comments regarding the
14 proposed changes, including the scheduling and manner of implementation, associated costs,
15 the applicability of the proposed changes, and the short-term and long-term effects of the
16 proposed changes. If, within thirty days after the date of the meeting, any representative
17 present at the meeting objects in writing to the proposed change, the superintendent may not
18 implement the change prior to July 1, 1999.

19 **SECTION 13. FEDERAL FUNDING FOR SPECIAL EDUCATION.** The legislative

20 assembly urges Congress to fund the education of children with disabilities at the level
21 authorized in the Education for All Handicapped Children Act of 1975. In that legislation, now
22 known as the Individuals with Disabilities Education Act, Congress included a graduated
23 formula for determining state entitlement and provided that for the fiscal year ending
24 September 30, 1982, and for each fiscal year thereafter, the federal funding level was to be set
25 at forty percent of the average per student expenditure in public elementary and secondary
26 schools in the United States. Because the level of federal funding received by this state has
27 never exceeded ten percent, this federal legislation constitutes an underfunded mandate. The
28 secretary of state shall forward copies of this section to the secretary of the department of
29 education, to the chairman of the senate labor and human resources committee, to the
30 chairman of the house economic and educational opportunities committee, and to each
31 member of the North Dakota congressional delegation.

1 **SECTION 14. GOALS 2000 - PARTICIPATION VOLUNTARY.** The school board of
2 any school district may, on behalf of the district it represents, choose to participate or not to
3 participate in Goals 2000 Educate America Act [Pub. L. 103-227; 108 Stat. 125; 20 U.S.C. 5801
4 et seq.]. Any school board that chooses to participate and directly or indirectly receives federal
5 funds for its participation shall expend such funds in the manner it determines best meets the
6 goal of educational enhancement in the school district, in accordance with the district's locally
7 developed goals 2000 educational improvement application plan. The superintendent of public
8 instruction may not impose any financial penalty or other sanction on a school or school district
9 if the school board chooses, at any time, to terminate participation in goals 2000.

10 **SECTION 15. School-to-work - Student participation voluntary.** Before any
11 elementary or secondary school student may participate in any course, program, or project
12 offered under the auspices of the School-to-Work Opportunities Act of 1994, [Pub. L. 103-239;
13 108 Stat. 568; 20 U.S.C. 2394 et seq.], the student's school principal shall obtain the written
14 consent of the student's parent or legal guardian. Participation by a student is voluntary and
15 may not be deemed a condition of graduation. Neither school personnel, school district
16 personnel, nor the superintendent of public instruction may impose any academic penalties or
17 any other sanctions on a student for failure to participate. A student's participation in a course,
18 program, or project offered under the auspices of the School-to-Work Opportunities Act of 1994
19 is subject to all state and federal child labor laws.

20 **SECTION 16. DISPLACED HOMEMAKER FUND.** The amount of \$250,000, or so
21 much of the sum as may be necessary, included in the estimated income line item in
22 subdivision 1 of section 1 of this Act is from the displaced homemaker fund for the purpose of
23 providing services for displaced homemakers as provided in chapter 14-06.1 for the biennium
24 beginning July 1, 1997, and ending June 30, 1999.

25 **SECTION 17. GRANTS.** The line item entitled grants in subdivision 2 of section 1 of
26 this Act includes \$935,521 for aid to public libraries of which no more than one-half is to be
27 expended during the fiscal year ending June 30, 1998.

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

1 **SECTION 19. AMENDMENT.** Section 15-21-02 of the 1995 Supplement to the North
2 Dakota Century Code is amended and reenacted as follows:

3 **15-21-02. Salary and traveling expenses.** The annual salary of the superintendent of
4 public instruction is ~~fifty-three~~ fifty-six thousand ~~eight~~ five hundred ~~forty-eight~~ sixty-eight dollars
5 through June 30, ~~1996~~ 1998, and ~~fifty-four~~ fifty-eight thousand ~~nine~~ two hundred ~~twenty-five~~
6 seventy-two dollars thereafter. The superintendent is also entitled to reimbursement for
7 expenses incurred in the discharge of official duties, such expenses to be paid monthly on a
8 warrant prepared by the office of management and budget and signed by the state auditor,
9 upon the filing of an itemized and verified statement of expenses.

10 **SECTION 20.** A new section to chapter 15-34.1 of the North Dakota Century Code is
11 created and enacted as follows:

12 **Children with autism - Home school.** Notwithstanding any other law, a parent or
13 legal guardian may provide home schooling to a developmentally disabled child with autism if:

- 14 1. The child has been determined to be autistic by a licensed psychologist;
- 15 2. The child's parent or legal guardian qualifies to provide home schooling under
16 section 15-34.1-06;
- 17 3. The child's parent or legal guardian files with the superintendent of the child's
18 school district of residence:
 - 19 a. A notice that the child will be home schooled;
 - 20 b. A copy of the child's diagnosis of autism prepared and attested to by a
21 licensed psychologist; and
 - 22 c. A description of the instructional plan to be followed during the school year,
23 together with an attestation by a licensed psychologist and a North Dakota
24 certified teacher that the instructional plan is appropriate for the child.

25 **SECTION 21.** A new section to chapter 15-34.1 of the North Dakota Century Code is
26 created and enacted as follows:

27 **Children with autism - Home school - Progress reports.**

- 28 1. On or before November first, February first, and May first of each school year, a
29 parent providing home schooling to an autistic child under section 20 of this Act
30 shall file with the superintendent of the child's school district of residence progress
31 reports prepared by a licensed psychologist, an occupational therapist, a speech

1 pathologist, and a certified teacher. If at any time the licensed psychologist, the
2 occupational therapist, the speech pathologist, and the certified teacher agree that
3 adequate progress is not being made, they shall notify the superintendent of the
4 child's school district of residence and request that the child be evaluated by a
5 multidisciplinary team.

6 2. The superintendent of the child's school district of residence shall forward copies of
7 all documentation required by this section to the superintendent of public
8 instruction. The superintendent of public instruction shall provide a report and
9 recommendations regarding the home schooling of developmentally disabled
10 children with autism under this section and section 20 of this Act to the legislative
11 council.

12 **SECTION 22. AMENDMENT.** Section 25-01-03 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **25-01-03. Supervising officer to appoint superintendent of institutions - Salaries -**
15 **Removal.**

16 1. The supervising officer shall appoint a superintendent for each of the institutions
17 under its control, except for the state hospital, where the supervising officer shall
18 appoint a superintendent and a medical director in consultation with a state
19 hospital governing body.

20 2. The tenure of office of each superintendent is two years from the date of the
21 superintendent's appointment, and the superintendent must possess qualifications
22 required by this title. Any superintendent may be removed by the supervising
23 officer for misconduct, neglect of duty, incompetency, or other proper cause
24 showing the superintendent's inability or refusal properly to perform the duties of
25 office, but a removal at a time other than a termination of the superintendent's
26 two-year tenure may be had only after an opportunity is given to the person to be
27 heard before a board consisting of the governor, attorney general, and supervising
28 officer of the institution on preferred written charges. A removal when made,
29 however, is final. This subsection does not apply to the superintendent of the
30 school for the blind or the superintendent of the school for the deaf, whose
31 positions are included in the classified service as provided in section 54-44.3-20.

1 3. The supervising officer shall fix the compensation of each superintendent within
2 the limits prescribed in this title and within the appropriations made by the
3 legislative assembly for compensation.

4 **SECTION 23. AMENDMENT.** Section 54-24-01 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **54-24-01. State library - State librarian appointed by the superintendent of public**
7 **instruction.** The superintendent of public instruction shall appoint an executive officer to be
8 known as the state librarian, who shall report to the superintendent and must receive a salary
9 within the amount appropriated for salaries by the legislative assembly. The state librarian shall
10 control the work and is the director of the state library. The position of state librarian is included
11 in the classified service, as provided in section 54-44.3-20. The state library is an autonomous
12 agency and retains a budget and staff separate from that of the superintendent of public
13 instruction.

14 **SECTION 24. AMENDMENT.** Subsection 3 of section 54-44.3-20 of the 1995
15 Supplement to the North Dakota Century Code is amended and reenacted as follows:

16 3. Administrative heads of departments required by law, other than the
17 superintendent of the school for the blind, the superintendent of the school for the
18 deaf, and the state librarian.

19 **SECTION 25. EXPIRATION DATE.** Sections 20 and 21 of this Act are effective
20 through June 30, 1999, and after that date are ineffective.

21 **SECTION 26. EMERGENCY.** Sections 20 and 21 of this Act are declared to be an
22 emergency measure.