

**Fifty-fifth Legislative Assembly, State of North Dakota, begun in the
Capitol in the City of Bismarck, on Monday, the sixth day of January,
one thousand nine hundred and ninety-seven**

HOUSE BILL NO. 1013
(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, the school for the blind, and the state library; to create and enact two new sections to chapter 15-34.1 of the North Dakota Century Code, relating to home schooling for children with autism; to amend and reenact sections 15-21-02, 25-01-03, 54-24-01, and subsection 3 of section 54-44.3-20 of the North Dakota Century Code, relating to the salary of the superintendent of public instruction and to the classified status of the superintendent of the school for the blind, the superintendent of the school for the deaf, and the state librarian; and to provide an expiration date.

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 hereby 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, the school for the blind, and the state library for the purpose of defraying the expenses of their various divisions, for the biennium beginning July 1, 1997, and ending June 30, 1999, as follows:

Subdivision 1.

DEPARTMENT OF PUBLIC INSTRUCTION

Salaries and wages	\$ 10,872,941
Operating expenses	8,704,612
Equipment	768,920
Grants - foundation aid and transportation	466,356,259
Grants - revenue supplement payments	3,100,000
Grants - tuition apportionment	49,273,144
Grants - special education	40,550,000
Grants - goals 2000	2,600,000
Grants - other grants	123,940,847
Grants - technology reimbursement payments	5,000,000
Grants - SENDIT	876,000
Grants - geographic education	50,000
Total all funds	\$712,092,723
Less estimated income	187,229,971
Total general fund appropriation	\$524,862,752

Subdivision 2.

STATE LIBRARY

Salaries and wages	\$ 1,958,201
Operating expenses	1,041,033
Equipment	22,500
Grants	1,135,521
Total all funds	\$ 4,157,255
Less estimated income	1,355,562
Total general fund appropriation	\$ 2,801,693

Subdivision 3.

SCHOOL FOR THE DEAF

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

Subdivision 4.

SCHOOL FOR THE BLIND

Salaries and wages	\$ 2,177,856
Operating expenses	652,154
Equipment	81,900
Capital improvements	<u>394,075</u>
Total all funds	\$ 3,305,985
Less estimated income	<u>957,067</u>
Total general fund appropriation	\$ 2,348,918
Grand total general fund appropriation H.B. 1013	\$534,584,828
Grand total special funds appropriation H.B. 1013	\$190,074,478
Grand total all funds appropriation H.B. 1013	\$724,659,306

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

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

SECTION 4. LEGISLATIVE INTENT - DISTRIBUTION OF SPECIAL EDUCATION AID. It is the intent of the legislative assembly that the amount included in the grants - special education line item in subdivision 1 of section 1 of this Act be distributed as follows:

1. Ten million dollars to reimburse school districts or special education units for excess costs incurred relating to contracts for students with disabilities as required in sections 15-40.2-08, 15-59-06, and 15-59-07, and for boarding care reimbursements as required in section 15-59-07.2.
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 15-40.1-07.6, except that during each of the school years of the biennium a school district or special education unit may not receive less than ninety percent of the amount received during the 1993-94 school year from state special education funds, excluding reimbursements for student contracts, boarding care, and gifted and talented programs. State special education payments distributed as required by section 15-40.1-07.6 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 district or unit.

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

SECTION 6. LEGISLATIVE INTENT - TECHNOLOGY REIMBURSEMENT PAYMENTS. It is the intent of the fifty-fifth legislative assembly that the funds appropriated in subdivision 1 of section 1 of this Act for technology reimbursement payments be used for reimbursing school districts for technology-related expenditures. The educational telecommunications council shall determine the maximum amount to which each school district is entitled by dividing the number of elementary and secondary students in average daily membership in this state into the funds appropriated in subdivision 1 of section 1 of this Act for technology reimbursement payments and then multiplying the result by the number of students in average daily membership in each district. Upon receiving substantiating documentation from a school district indicating the expenditure of funds on or after July 1, 1996, for the acquisition of computer technology for student uses or instructional purposes, interactive television, or teacher inservice programs related to the use of computer technology in classroom instruction, the educational telecommunications council shall provide reimbursement to the school district in an amount equal to that expended but not exceeding that to which the school district is entitled.

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

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

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

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

SECTION 11. PAYMENTS FOR LIMITED ENGLISH PROFICIENT STUDENTS. Notwithstanding section 2 of Senate Bill No. 2029 as passed by the fifty-fifth legislative assembly, payments to school districts educating limited English proficient students, as provided by that bill, must be paid from up to \$300,000 of the amount appropriated in subdivision 1 of section 1 of this Act for grants - foundation aid and transportation.

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

SECTION 13. FEDERAL FUNDING FOR SPECIAL EDUCATION. The legislative assembly urges Congress to fund the education of children with disabilities at the level authorized in the Education for All Handicapped Children Act of 1975. In that legislation, now known as the Individuals with Disabilities Education Act, Congress included a graduated formula for determining state entitlement and provided that for the fiscal year ending September 30, 1982, and for each fiscal year thereafter, the federal funding level was to be set at forty percent of the average per student expenditure in public elementary and secondary schools in the United States. Because the level of federal funding received by this state has never exceeded ten percent, this federal legislation constitutes an underfunded mandate. The secretary of state shall forward copies of this section to the secretary of the department of education, to the chairman of the senate labor and human resources committee, to the chairman of the house economic and educational opportunities committee, and to each member of the North Dakota congressional delegation.

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

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

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

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

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

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

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

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

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

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

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

Children with autism - Home school - Progress reports.

1. On or before November first, February first, and May first of each school year, a parent providing home schooling to an autistic child under section 20 of this Act shall file with the superintendent of the child's school district of residence progress reports prepared by a licensed psychologist, an occupational therapist, a speech pathologist, and a certified teacher. If at any time the licensed psychologist, the occupational therapist, the speech pathologist, and the certified teacher agree that adequate progress is not being made, they shall notify the superintendent of the child's school district of residence and request that the child be evaluated by a multidisciplinary team.
2. The superintendent of the child's school district of residence shall forward copies of all documentation required by this section to the superintendent of public instruction. The superintendent of public instruction shall provide a report and recommendations regarding the home schooling of developmentally disabled children with autism under this section and section 20 of this Act to the legislative council.

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

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

1. The supervising officer shall appoint a superintendent for each of the institutions under its control, except for the state hospital, where the supervising officer shall appoint a superintendent and a medical director in consultation with a state hospital governing body.
2. The tenure of office of each superintendent is two years from the date of the superintendent's appointment, and the superintendent must possess qualifications required by this title. Any superintendent may be removed by the supervising officer for misconduct, neglect of duty, incompetency, or other proper cause showing the superintendent's inability or refusal properly to perform the duties of office, but a removal at a time other than a termination of the superintendent's two-year tenure may be had only after an opportunity is given to the person to be heard before a board consisting of the governor, attorney general, and supervising officer of the institution on preferred written charges. A removal when made, however, is final. This subsection does not apply to the superintendent of the school for the blind or the superintendent of the school for the deaf, whose positions are included in the classified service as provided in section 54-44.3-20.
3. The supervising officer shall fix the compensation of each superintendent within the limits prescribed in this title and within the appropriations made by the legislative assembly for compensation.

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

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

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

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

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

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-fifth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1013.

House Vote: Yeas 64 Nays 27 Absent 6

Senate Vote: Yeas 46 Nays 0 Absent 3

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 1997.

Approved at _____ M. on _____, 1997.

Governor

Filed in this office this _____ day of _____, 1997,

at _____ o'clock _____ M.

Secretary of State