

**FIRST ENGROSSMENT
with Senate Amendments**

Sixty-first
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, North Dakota vision services - school for the blind,
3 and the state library; to provide an appropriation; to provide for the distribution of funding for
4 gifted and talented programs and other grants; to provide a contingent appropriation; to provide
5 for the development and implementation of a future services plan for the school for the deaf; to
6 amend and reenact section 15.1-02-02 and subsection 6 of section 15.1-29-14 of the North
7 Dakota Century Code, relating to the salary of the superintendent of public instruction and
8 special education cost reimbursements; 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 appropriated out of any moneys in the general fund in the state
12 treasury, not otherwise appropriated, and from special funds derived from federal funds and
13 other income, to the department of public instruction, the school for the deaf, North Dakota
14 vision services - school for the blind, and the state library for the purpose of defraying the
15 expenses of those agencies, for the biennium beginning July 1, 2009, and ending June 30,
16 2011, as follows:

17 Subdivision 1.

18 **DEPARTMENT OF PUBLIC INSTRUCTION**

		Adjustments or	
	<u>Base Level</u>	<u>Enhancements</u>	<u>Appropriation</u>
21 Salaries and wages	\$11,415,534	\$2,283,467	\$13,699,001
22 Operating expenses	19,738,294	11,313,692	31,051,986
23 Grants - State school aid	726,165,879	99,000,000	825,165,879
24 Grants - Special education contracts	17,500,000	(2,000,000)	15,500,000

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1	Grants - Transportation	33,500,000	10,000,000	43,500,000
2	Grants - Other grants	227,701,806	15,287,915	242,989,721
3	Transportation efficiency	30,000	0	30,000
4	National board certification	<u>40,000</u>	<u>62,500</u>	<u>102,500</u>
5	Total all funds	\$1,036,091,513	\$135,947,574	\$1,172,039,087
6	Less estimated income	<u>325,668,238</u>	<u>34,786,136</u>	<u>360,454,374</u>
7	Total general fund	\$710,423,275	\$101,161,438	\$811,584,713
8	Full-time equivalent positions	94.75	5.00	99.75

Subdivision 2.

STATE LIBRARY

11			Adjustments or	
12		<u>Base Level</u>	<u>Enhancements</u>	<u>Appropriation</u>
13	Salaries and wages	\$2,628,494	\$656,518	\$3,285,012
14	Operating expenses	1,477,772	4,801	1,482,573
15	Grants	<u>1,752,500</u>	<u>100,000</u>	<u>1,852,500</u>
16	Total all funds	\$5,858,766	\$761,319	\$6,620,085
17	Less estimated income	<u>1,881,253</u>	<u>58,442</u>	<u>1,939,695</u>
18	Total general fund	\$3,977,513	\$702,877	\$4,680,390
19	Full-time equivalent positions	29.75	0.00	29.75

Subdivision 3.

SCHOOL FOR THE DEAF

22			Adjustments or	
23		<u>Base Level</u>	<u>Enhancements</u>	<u>Appropriation</u>
24	Salaries and wages	\$4,765,173	\$738,561	\$5,503,734
25	Operating expenses	1,514,283	124,320	1,638,603
26	Capital assets	50,000	179,140	229,140
27	Deferred maintenance	<u>0</u>	<u>98,605</u>	<u>98,605</u>
28	Total all funds	\$6,329,456	\$1,140,626	\$7,470,082
29	Less estimated income	<u>1,039,018</u>	<u>295,443</u>	<u>1,334,461</u>
30	Total general fund	\$5,290,438	\$845,183	\$6,135,621
31	Full-time equivalent positions	43.94	0.00	43.94

1 Subdivision 4.

2 VISION SERVICES - SCHOOL FOR THE BLIND

3		Adjustments or		
4		<u>Base Level</u>	<u>Enhancements</u>	<u>Appropriation</u>
5	Salaries and wages	\$2,978,895	\$585,796	\$3,564,691
6	Operating expenses	640,798	39,854	680,652
7	Capital assets	142,100	(115,100)	27,000
8	Deferred maintenance	<u>0</u>	<u>64,500</u>	<u>64,500</u>
9	Total all funds	\$3,761,793	\$575,050	\$4,336,843
10	Less estimated income	<u>843,857</u>	<u>(23,275)</u>	<u>820,582</u>
11	Total general fund	\$2,917,936	\$598,325	\$3,516,261
12	Full-time equivalent positions	28.00	1.50	29.50

13 Subdivision 5.

14 BILL TOTAL

15		Adjustments or		
16		<u>Base Level</u>	<u>Enhancements</u>	<u>Appropriation</u>
17	Grand total general fund	\$722,609,162	\$103,307,823	\$825,916,985
18	Grand total special funds	\$329,432,366	\$188,486,482	\$517,918,848
19	Grand total all funds	\$1,052,041,528	\$291,794,305	\$1,343,835,833

20 **SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO**
 21 **SIXTY-SECOND LEGISLATIVE ASSEMBLY.** The following amounts reflect the one-time
 22 funding items approved by the sixtieth legislative assembly for the 2007-09 biennium and the
 23 2009-11 one-time funding items included in the appropriation in section 1 of this Act:

24	<u>One-Time Funding Description</u>	<u>2007-09</u>	<u>2009-11</u>
25	Department of public instruction		
26	STARS school data collection system rewrite	\$0	\$500,000
27	Geographic alliance endowment	<u>0</u>	<u>226,000</u>
28	Total department of public instruction - General fund	\$0	\$726,000
29	School for the deaf		
30	Deferred maintenance	\$100,000	\$0
31	Facility master plan	0	41,000

1	Virtual services business plan	0	<u>25,000</u>
2	Total school for the deaf - General fund	\$100,000	\$66,000
3	School for the blind - Vision services		
4	Equipment	\$0	\$39,200
5	Window replacement	0	<u>31,000</u>
6	Total school for the blind - Vision services - General fund	\$0	\$70,200
7	Grand total - General fund	\$100,000	\$862,200

8 The 2009-11 one-time funding amounts are not a part of the entity's base budget for the
9 2011-13 biennium. The department of public instruction, school for the deaf, and school for the
10 blind - vision services shall report to the appropriations committees of the sixty-second
11 legislative assembly on the use of this one-time funding for the biennium beginning July 1,
12 2009, and ending June 30, 2011.

13 **SECTION 3. APPROPRIATION - FEDERAL FISCAL STIMULUS FUNDS -**

14 **ADDITIONAL FUNDING APPROVAL.** The funds provided in this section, or so much of the
15 funds as may be necessary, are appropriated from federal funds made available to the state
16 under the federal American Recovery and Reinvestment Act of 2009, not otherwise
17 appropriated, to the superintendent of public instruction, for the period beginning with the
18 effective date of this Act and ending June 30, 2011, as follows:

19	Fiscal stabilization - Education funds	\$85,644,337
20	Title I - Part A	27,415,262
21	Title I - School improvement	7,145,000
22	Title II - Part D - Technology	3,209,375
23	Individuals With Disabilities Education Act	27,413,988
24	McKinney-Vento Homeless Assistance Act	150,000
25	National school lunch program	230,000
26	The emergency food assistance program	85,426
27	Clean diesel (passthrough from the state	1,730,000
28	department of health)	<hr/>
29	Total federal funds	\$153,023,388

30 The superintendent of public instruction may seek emergency commission and budget
31 section approval under chapter 54-16 for authority to spend any additional federal funds

received under the federal American Recovery and Reinvestment Act of 2009 in excess of the amounts appropriated in this section, for the period beginning with the effective date of this Act and ending June 30, 2011.

Any federal funds appropriated under this section are not a part of the agency's 2011-13 base budget. Any program expenditures made with these funds will not be replaced with state funds after the federal American Recovery and Reinvestment Act of 2009 funds are no longer available.

SECTION 4. APPROPRIATION - FEDERAL FISCAL STABILIZATION - OTHER GOVERNMENT SERVICES - ADDITIONAL FUNDING APPROVAL. The funds provided in this section, or so much of the funds as may be necessary, are appropriated from federal fiscal stabilization - other government services funds made available to the governor under the federal American Recovery and Reinvestment Act of 2009, not otherwise appropriated, to the superintendent of public instruction, for the period beginning with the effective date of this Act and ending June 30, 2011, as follows:

Department of public instruction administrative costs relating to federal fiscal stimulus payment to schools, including salaries (\$152,533) and operating expenses (\$173,815)	\$326,348
Early childhood learning council operating expenses	<u>20,000</u>
Total federal funds from governor's office	\$346,348

Any federal funds appropriated under this section are not a part of the agency's 2011-13 base budget. Any program expenditures made with these funds will not be replaced with state funds after the federal American Recovery and Reinvestment Act of 2009 funds are no longer available.

SECTION 5. LINE ITEM TRANSFERS - SCHOOL FOR THE DEAF. Notwithstanding section 54-16-04, the director of the office of management and budget and the state treasurer shall transfer funds from the salaries and wages line item to the operating expenses line item contained in subdivision 3 of section 1 of this Act of up to \$100,000 as requested by the superintendent of public instruction to provide funding for a future services plan and implementation for the school for the deaf, for the biennium beginning July 1, 2009, and ending June 30, 2011.

SECTION 6. DEFERRED MAINTENANCE - TRANSFERS - SCHOOL FOR THE

DEAF. The school for the deaf is authorized to transfer from the deferred maintenance line to the capital assets line, contained in subdivision 3 of section 1 of this Act, amounts necessary to address extraordinary repair needs. Any amounts transferred must be reported to the director of the office of management and budget.

SECTION 7. DEFERRED MAINTENANCE - TRANSFERS - SCHOOL FOR THE

BLIND - VISION SERVICES. The school for the blind - vision services is authorized to transfer from the deferred maintenance line to the capital assets line, contained in subdivision 4 of section 1 of this Act, amounts necessary to address extraordinary repair needs. Any amounts transferred must be reported to the director of the office of management and budget.

SECTION 8. APPROPRIATION. There is appropriated from special funds derived

from federal funds and other income the sum of \$20,000,000, or so much of the sum as may be necessary, to the superintendent of public instruction for grants for the period beginning with the effective date of this Act and ending June 30, 2009.

SECTION 9. APPROPRIATION - TUITION APPORTIONMENT. The sum of

\$86,300,000, included in the grants - state school aid line item in subdivision 1 of section 3 of this Act, is from the state tuition fund in the state treasury. Any additional amount in the state tuition fund that becomes available for distribution to public schools is appropriated to the department of public instruction for that purpose for the biennium beginning July 1, 2009, and ending June 30, 2011.

SECTION 10. STATE SCHOOL AID AND SPECIAL EDUCATION CONTRACTS

EXPENDITURE AUTHORITY. The superintendent of public instruction may expend funds included in the grants - state school aid and grants - special education contracts line items in subdivision 1 of section 1 of this Act in payment of grants for educational services that were due in the 2007-09 biennium but which were not filed, claimed, or properly supported by the education provider until after June 30, 2009.

SECTION 11. GIFTED AND TALENTED PROGRAM - FUNDING - DISTRIBUTION.

The sum of \$800,000, included in the grants - state school aid line item in subdivision 1 of section 1 of this Act, must be distributed 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

1 superintendent of public instruction shall encourage cooperative efforts for gifted and talented
2 programs among school districts and special education units. State school aid payments for
3 special education must be reduced by the amount of matching funds required to be paid by
4 school districts or special education units for students participating in the medicaid program.
5 Special education funds equal to the amount of the matching funds required to be paid by the
6 school district or special education unit must be paid by the superintendent of public instruction
7 to the department of human services on behalf of the school district or unit.

8 **SECTION 12. GENERAL EDUCATIONAL DEVELOPMENT GRADUATE**

9 **ASSESSMENT - FUNDING.** The department of public instruction shall make available, from
10 funds appropriated in subdivision 1 of section 1 of this Act, for the state assessment program,
11 amounts necessary, as requested by adult education providers to defray the costs of
12 assessment testing of individuals pursuing a general educational development diploma, for the
13 biennium beginning July 1, 2009, and ending June 30, 2011.

14 **SECTION 13. TEACHER OF THE YEAR PROGRAM - FUNDING.** The department of
15 public instruction shall administer a teacher of the year program for the biennium beginning
16 July 1, 2009, and ending June 30, 2011. The department of public instruction shall assign
17 responsibility to its department staff to coordinate the annual event, including preparation of
18 application materials, distribution of materials to the selection committee, publicity, and
19 planning of the event at which the recipient of the award is announced. The selection
20 committee appointed by the department of public instruction may not include more than one
21 representative from any education-related organization or association.

22 **SECTION 14. INDIRECT COST ALLOCATION.** Notwithstanding section 54-44.1-15,
23 the department of public instruction may deposit indirect cost recoveries in its operating
24 account.

25 **SECTION 15. STATE AID TO PUBLIC LIBRARIES.** The line item entitled grants in
26 subdivision 2 of section 1 of this Act includes \$1,300,000 for aid to public libraries, of which no
27 more than one-half is to be expended during the fiscal year ending June 30, 2010.

28 **SECTION 16. FEES DEPOSITED IN VISION SERVICES - SCHOOL FOR THE BLIND**
29 **OPERATING FUND.** Any moneys included in the estimated income line item in subdivision 4
30 of section 1 of this Act, collected for subscription fees or braille fees, must be deposited in the

North Dakota vision services - school for the blind operating fund in the state treasury and may be spent subject to appropriation by the legislative assembly.

**SECTION 17. CONTINGENT APPROPRIATION - SUPPLEMENTAL
TRANSPORTATION AID PAYMENTS.**

1. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$5,000,000, or so much of the sum as may be necessary, to the superintendent of public instruction for the purpose of providing supplemental transportation aid payments, for the biennium beginning July 1, 2009, and ending June 30, 2011.
2. If the office of management and budget determines by July 31, 2010, that the June 30, 2011, ending balance of the state general fund will be more than \$30,000,000 in excess of the amount predicted by the office of management and budget at the conclusion of the 2009 legislative session, the superintendent of public instruction shall provide \$5,000,000 as supplemental transportation aid payments to school districts.
3. If the general fund balance requirements of subsection 2 are not met and if the office of management and budget determines by April 30, 2011, that the June 30, 2011, ending balance of the state general fund will be more than \$30,000,000 in excess of the amount predicted by the office of management and budget at the conclusion of the 2009 legislative session, the superintendent of public instruction shall provide \$5,000,000 as supplemental transportation aid payments to school districts.
4. The superintendent of public instruction shall pro rate the supplemental transportation payments according to the percentage of the total transportation formula amount that each school district is entitled to receive under 2009 House Bill No. 1400 as approved by the sixty-first legislative assembly.

**SECTION 18. CONTINGENT APPROPRIATION - DEFERRED MAINTENANCE AND
PHYSICAL PLANT IMPROVEMENT GRANTS.**

1. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$10,000,000, or so much of the sum as may be necessary, to the superintendent of public instruction for the purpose of

awarding grants to eligible school districts for deferred maintenance and physical plant improvements, for the biennium beginning July 1, 2009, and ending June 30, 2011.

2. If the office of management and budget determines by July 31, 2010, that the June 30, 2011, ending balance of the state general fund will be more than \$30,000,000 in excess of the amount predicted by the office of management and budget at the conclusion of the 2009 legislative session, the superintendent of public instruction shall forward to each eligible school district:

- a. Twenty thousand dollars; plus
- b. The school district's pro rata share of the remaining appropriation, calculated by using the latest available average daily membership of each school district.

3. If the general fund balance requirements of subsection 2 are not met and if the office of management and budget determines by April 30, 2011, that the June 30, 2011, ending balance of the state general fund will be more than \$30,000,000 in excess of the amount predicted by the office of management and budget at the conclusion of the 2009 legislative session, the superintendent of public instruction shall forward to each eligible school district:

- a. Twenty thousand dollars; plus
- b. The school district's pro rata share of the remaining appropriation, calculated by using the latest available average daily membership of each school district.

4. By June 30, 2012, each school district that receives a deferred maintenance and physical plant improvement grant from the superintendent of public instruction shall:

- a. Submit to the superintendent documentation detailing how the grant funds were expended; and
- b. Return any unexpended grant funds to the superintendent for deposit in the general fund.

5. The superintendent of public instruction may provide a deferred maintenance and physical plant improvement grant only to a school district that:

- a. Has a general fund levy equal to at least one hundred fifty mills for the taxable year 2008;

- b. Is not precluded from receiving state aid by the provisions of section 15.1-27-35.3; and
- c. Provides a monetary match equal to the grant amount.

SECTION 19. FUTURE SERVICES PLAN AND IMPLEMENTATION - SCHOOL FOR THE DEAF. The department of public instruction and school for the deaf shall develop a plan for future services to be offered by the school for the deaf and begin implementing the plan for the biennium beginning July 1, 2009, and ending June 30, 2011. As part of the plan, the department of public instruction and school for the deaf shall:

1. Review the needs of all deaf and hearing-impaired persons throughout the state and develop a plan to provide comprehensive outreach services to all North Dakota citizens who are deaf or hearing-impaired.
2. Explore the development of partnerships with other states relating to the provision of residential and educational services to individuals who are deaf or hearing-impaired.
3. Review current research and national trends in the provision of services to students who are deaf or hearing-impaired.
4. Meet regularly with a transition team appointed by the superintendent of public instruction consisting of representation from the legislative assembly, parents of school for the deaf students, school for the deaf employees, members of the Devils Lake community, school for the deaf alumni, and others.
5. Explore the feasibility of implementing revenue-generating activities at the school for the deaf.
6. Develop a long-range site and facility plan for the school for the deaf campus.

SECTION 20. AMENDMENT. Section 15.1-02-02 of the North Dakota Century Code is amended and reenacted as follows:

15.1-02-02. Salary. The annual salary of the superintendent of public instruction is ~~eighty-seven~~ ninety-five thousand one hundred ~~three~~ sixteen dollars through June 30, ~~2008~~ 2010, and ~~ninety~~ ninety-nine thousand ~~five~~ eight hundred ~~eighty-seven~~ seventy-two dollars thereafter.

SECTION 21. AMENDMENT. Subsection 6 of section 15.1-29-14 of the North Dakota Century Code is amended and reenacted as follows:

- 1 6. a. An amount equal to the state average per student elementary or high school
2 cost, depending on the student's grade of enrollment, is payable to the
3 admitting district or facility as part of the cost of educating the student for the
4 school year. The payment may not exceed the actual per student cost
5 incurred by the admitting district or facility.
- 6 b. The remainder of the actual cost of educating the student not covered by
7 other payments or credits must be paid by the state, within the limits of
8 legislative appropriations, from funds appropriated for the payment of special
9 education contract charges in the case of a student with disabilities or from
10 state aid payments to schools in all other cases. For purposes of this
11 subdivision, "actual costs" includes the cost of a summer program if the
12 program is a condition of placement at a residential facility that has been
13 determined by a placing agency or entity to be an appropriate placement for a
14 student.

15 **SECTION 18. EMERGENCY.** Sections 3, 4, and 8 of this Act are declared to be an
16 emergency measure.