

**Sixty-first Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 6, 2009**

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, North Dakota vision services - school for the blind, and the state library; to provide an appropriation; to provide for the distribution of funding for gifted and talented programs and other grants; to provide a contingent appropriation; to provide for the development and implementation of a future services plan for the school for the deaf; to amend and reenact section 15.1-02-02 and subsection 6 of section 15.1-29-14 of the North Dakota Century Code, relating to the salary of the superintendent of public instruction and special education cost reimbursements; to provide legislative intent; to provide an exemption; and to declare an emergency.

**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 appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds including federal fiscal stimulus funds made available to the governor under the federal American Recovery and Reinvestment Act of 2009 and other income, to the department of public instruction, the school for the deaf, North Dakota vision services - school for the blind, and the state library for the purpose of defraying the expenses of those agencies, for the biennium beginning July 1, 2009, and ending June 30, 2011, as follows:

Subdivision 1.

DEPARTMENT OF PUBLIC INSTRUCTION

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$11,415,534	\$1,936,388	\$13,351,922
Operating expenses	19,738,294	11,313,692	31,051,986
Grants - State school aid	726,165,879	82,204,416	808,370,295
Grants - Special education contracts	17,500,000	(2,000,000)	15,500,000
Grants - Supplemental one-time	0	85,644,337	85,644,337
Grants - Supplemental operations	0	16,795,584	16,795,584
Grants - Transportation	33,500,000	10,000,000	43,500,000
Grants - Other grants	227,701,806	15,287,915	242,989,721
Transportation efficiency	30,000	0	30,000
National board certification	40,000	62,500	102,500
Total all funds	\$1,036,091,513	\$221,244,832	\$1,257,336,345
Less estimated income	<u>325,668,238</u>	<u>120,187,517</u>	<u>445,855,755</u>
Total general fund	\$710,423,275	\$101,057,315	\$811,480,590
Full-time equivalent positions	94.75	5.00	99.75

Subdivision 2.

STATE LIBRARY

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$2,628,494	\$565,297	\$3,193,791
Operating expenses	1,477,772	4,801	1,482,573
Grants	<u>1,752,500</u>	<u>100,000</u>	<u>1,852,500</u>
Total all funds	\$5,858,766	\$670,098	\$6,528,864

Less estimated income	<u>1,881,253</u>	<u>46,583</u>	<u>1,927,836</u>
Total general fund	\$3,977,513	\$623,515	\$4,601,028
Full-time equivalent positions	29.75	0.00	29.75

Subdivision 3.

SCHOOL FOR THE DEAF

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$4,765,173	\$664,825	\$5,429,998
Operating expenses	1,514,283	124,320	1,638,603
Capital assets	50,000	1,849,140	1,899,140
Deferred maintenance	<u>0</u>	<u>98,605</u>	<u>98,605</u>
Total all funds	\$6,329,456	\$2,736,890	\$9,066,346
Less estimated income	<u>1,039,018</u>	<u>1,127,432</u>	<u>2,166,450</u>
Total general fund	\$5,290,438	\$1,609,458	\$6,899,896
Full-time equivalent positions	43.94	0.00	43.94

Subdivision 4.

VISION SERVICES - SCHOOL FOR THE BLIND

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$2,978,895	\$552,369	\$3,531,264
Operating expenses	640,798	39,854	680,652
Capital assets	142,100	(115,100)	27,000
Deferred maintenance	<u>0</u>	<u>64,500</u>	<u>64,500</u>
Total all funds	\$3,761,793	\$541,623	\$4,303,416
Less estimated income	<u>843,857</u>	<u>(27,955)</u>	<u>815,902</u>
Total general fund	\$2,917,936	\$569,578	\$3,487,514
Full-time equivalent positions	28.00	1.50	29.50

Subdivision 5.

BILL TOTAL

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Grand total general fund	\$722,609,162	\$103,859,866	\$826,469,028
Grand total special funds	\$329,432,366	\$189,058,976	\$518,491,342
Grand total all funds	\$1,052,041,528	\$292,918,842	\$1,344,960,370

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

<u>One-Time Funding Description</u>	<u>2007-09</u>	<u>2009-11</u>
Department of public instruction		
STARS school data collection system rewrite	\$0	\$500,000
Geographic alliance endowment	<u>0</u>	<u>226,000</u>
Total department of public instruction - General fund	\$0	\$726,000
School for the deaf		
Deferred maintenance	\$100,000	\$0
Facility master plan	0	41,000
Trades building remodel	0	835,000
Virtual services business plan	<u>0</u>	<u>25,000</u>
Total school for the deaf - General fund	\$100,000	\$901,000
School for the blind - Vision services		
Equipment	\$0	\$39,200
Window replacement	<u>0</u>	<u>31,000</u>

Total school for the blind - Vision services - General fund	\$0	\$70,200
Grand total - General fund	\$100,000	\$1,697,200

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

**SECTION 3. APPROPRIATION - FEDERAL FISCAL STIMULUS FUNDS - ADDITIONAL FUNDING APPROVAL.** The funds provided in this section, or so much of the funds as may be necessary, are appropriated from federal funds made available to the state 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:

Title I - Part A	\$27,415,262
Title I - School improvement	7,145,000
Title II - Part D - Technology	3,209,375
Individuals With Disabilities Education Act	27,413,988
McKinney-Vento Homeless Assistance Act	150,000
National school lunch program	230,000
The emergency food assistance program	85,426
Clean diesel (passthrough from the state department of health)	1,730,000
Total federal funds	<u>\$67,379,051</u>

The superintendent of public instruction may seek emergency commission and budget 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. SUPERINTENDENT'S SALARY - LINE ITEM TRANSFERS - SCHOOL FOR THE DEAF.** The monthly salary for the superintendent of the school for the deaf for the 2009-11 biennium may not exceed the monthly salary level in effect for this position in January 2009.

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 and to the capital assets line item as requested by the superintendent of public instruction to provide funding for a future services plan and implementation for the school for the deaf and for the remodel of the trades building, 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 superintendent of public instruction shall encourage cooperative efforts for gifted and talented programs among school districts and special education units. State school aid payments for special education 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 school district or unit.

**SECTION 12. TEACHER OF THE YEAR PROGRAM - FUNDING.** The department of public instruction shall administer a teacher of the year program for the biennium beginning July 1, 2009, and ending June 30, 2011. The department of public instruction shall assign responsibility to its department staff to coordinate the annual event, including preparation of application materials, distribution of materials to the selection committee, publicity, and planning of the event at which the recipient of the award is announced. The selection committee appointed by the department of public instruction may not include more than one representative from any education-related organization or association.

**SECTION 13. INDIRECT COST ALLOCATION.** Notwithstanding section 54-44.1-15, the department of public instruction may deposit indirect cost recoveries in its operating account.

**SECTION 14. STATE AID TO PUBLIC LIBRARIES.** The line item entitled grants in subdivision 2 of section 1 of this Act includes \$1,300,000 for aid to public libraries, of which no more than one-half is to be expended during the fiscal year ending June 30, 2010.

**SECTION 15. FEES DEPOSITED IN VISION SERVICES - SCHOOL FOR THE BLIND OPERATING FUND.** Any moneys included in the estimated income line item in subdivision 4 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 16. 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 17. 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 18. 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 19. AMENDMENT.** Subsection 6 of section 15.1-29-14 of the North Dakota Century Code is amended and reenacted as follows:

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

**SECTION 20. BANK OF NORTH DAKOTA LOAN AUTHORIZATION.** The school for the deaf may borrow the sum of \$835,000, or so much of the sum as may be necessary, from the Bank of North Dakota, which is appropriated in subdivision 3 of section 1 of this Act for the purpose of remodeling the trades building on the campus of the school for the deaf for the period beginning with the effective date of this Act and ending June 30, 2011.

**SECTION 21. EXEMPTION.** The amount appropriated for the school for the deaf in subdivision 3 of section 3 of chapter 40 of the 2007 Session Laws is not subject to section 54-44.1-11 and any unexpended funds relating to this amount are available for the remodel of the trades building during the biennium beginning July 1, 2009, and ending June 30, 2011.

**SECTION 22. EMERGENCY.** The amount of \$1,670,000, of which \$835,000 is from the general fund, included in the capital assets line item in subdivision 3 of section 1 of this Act and sections 3, 4, 8, 20, and 21 of this Act are declared to be an emergency measure.

\_\_\_\_\_  
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 Sixty-first Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1013 and that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote:      Yeas        88            Nays        4            Absent      2

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
Chief Clerk of the House

This certifies that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote:      Yeas        46            Nays        0            Absent      1

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Secretary of the Senate

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2009.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2009.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2009,  
at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State