

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

938M0445

SENATE APPROPRIATIONS COMMITTEE

ENGROSSED NO. **HB 1175** - 02/22/2006

**This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.**

Introduced by: Representatives McLaughlin, Elliott, Frost, Hanks, Hennies, Hills, McCoy, Roberts, Schafer, Thompson, and Van Etten and Senators Adelstein, Dempster, Gant, Gray, Hundstad, and Nesselhuf

1 FOR AN ACT ENTITLED, An Act to repeal certain provisions regarding the reduction in state  
2 aid to education based on school district general fund balances, to appropriate funds to  
3 increase funding to education and assist sparse school districts, and to increase the  
4 distribution from the education enhancement trust fund.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

6 Section 1. That § 13-13-10.1 be amended to read as follows:

7 13-13-10.1. Terms used in this chapter mean:

8 (1) "Average daily membership," the average number of resident and nonresident  
9 kindergarten through twelfth grade pupils enrolled in all schools operated by the  
10 school district during the previous regular school year, minus average number of  
11 pupils for whom the district receives tuition, except pupils described in subdivision  
12 (1A) and pupils for whom tuition is being paid pursuant to § 13-28-42 and plus the  
13 average number of pupils for whom the district pays tuition;

14 (1A) Nonresident students who are in the care and custody of the Department of Social



1 Services, the Unified Judicial System, the Department of Corrections, or other state  
2 agencies and are attending a public school may be included in the average daily  
3 membership of the receiving district when enrolled in the receiving district. When  
4 counting a student who meets these criteria in its general enrollment average daily  
5 membership, the receiving district may begin the enrollment on the first day of  
6 attendance. The district of residence prior to the custodial transfer may not include  
7 students who meet these criteria in its general enrollment average daily membership  
8 after the student ceases to attend school in the resident district;

9 (2) "Adjusted average daily membership," calculated as follows:

10 (a) For districts with an average daily membership of two hundred or less,  
11 multiply 1.2 times the average daily membership;

12 (b) For districts with an average daily membership of less than six hundred, but  
13 greater than two hundred, raise the average daily membership to the 0.8293  
14 power and multiply the result times 2.98;

15 (c) For districts with an average daily membership of six hundred or more,  
16 multiply 1.0 times their average daily membership;

17 (3) "Index factor," is the annual percentage change in the consumer price index for urban  
18 wage earners and clerical workers as computed by the Bureau of Labor Statistics of  
19 the United States Department of Labor for the year before the year immediately  
20 preceding the year of adjustment or three percent, whichever is less;

21 (4) "Per student allocation," for school fiscal year 2006 is \$4,237.72. Each school fiscal  
22 year thereafter, the per student allocation is the previous fiscal year's per student  
23 allocation increased by the index factor;

24 (5) "Local need," the per student allocation multiplied by the adjusted average daily

1 membership;

2 (6) "Local effort," the amount of ad valorem taxes generated in a school fiscal year by  
3 applying the levies established pursuant to § 10-12-42;

4 ~~(7) "General fund balance," the unreserved fund balance of the general fund, less general  
5 fund exclusions plus, beginning with transfers made in fiscal year 2001, any transfers  
6 out of the general fund for the previous school fiscal year;~~

7 ~~(8) "General fund balance percentage," is a school district's general fund balance divided  
8 by the school district's total general fund expenditures for the previous school fiscal  
9 year, the quotient expressed as a percent;~~

10 ~~(9) "General fund base percentage," is the general fund balance percentage as of June 30,  
11 2000. However, the general fund base percentage can never increase and can never  
12 be less than twenty percent;~~

13 ~~(10) "Allowable general fund balance," the fund base percentage multiplied by the  
14 district's general fund expenditures in the previous school fiscal year;~~

15 ~~(11) "Imputed interest rate," the average prime rate for the preceding fiscal year minus 2.5  
16 percentage points;~~

17 ~~(12) "General fund exclusions," revenue a school district has received from the imposition  
18 of the excess tax levy pursuant to § 10-12-43; revenue a school district has received  
19 from gifts, contributions, grants, or donations; revenue a school district has received  
20 under the provisions of §§ 13-6-92 to 13-6-96, inclusive; and any revenue in the  
21 general fund set aside for a noninsurable judgment.~~

22 Section 2. That § 13-13-73.2 be repealed.

23 ~~13-13-73.2. A school district's state aid for general education as calculated pursuant to § 13-  
24 13-73 shall be reduced by the following calculation:~~

1 ~~— (1) Subtract the allowable general fund balance from the general fund balance. If the~~  
2 ~~result is less than zero, (1) equals zero;~~

3 ~~— (2) Determine the lower of the general fund base percentage or the general fund balance~~  
4 ~~percentage;~~

5 ~~— (3) Subtract twenty percent (0.2) from the result of (2). If the result is less than zero, (3)~~  
6 ~~equals zero;~~

7 ~~— (4) Multiply the result of (3) by the district's general fund expenditures in the previous~~  
8 ~~school fiscal year;~~

9 ~~— (5) Multiply the result of (4) by the imputed interest rate;~~

10 ~~— (6) Add the result of (1) and the result of (5).~~

11 Section 3. That § 13-13-73.3 be repealed.

12 ~~— 13-13-73.3. The secretary of education shall determine the reduction in state aid to education~~  
13 ~~pursuant to § 13-13-73.2. The secretary of education shall distribute the amount of money so~~  
14 ~~determined to school districts that received state aid pursuant to chapter 13-13 on a pro rata~~  
15 ~~basis according to the district's average daily membership compared to the total average daily~~  
16 ~~membership of all districts eligible for this distribution.~~

17 Section 4. That § 13-13-73.4 be repealed.

18 ~~— 13-13-73.4. The secretary of the Department of Education shall promulgate rules, pursuant~~  
19 ~~to chapter 1-26, that calculate exclusions for revenue received from opting out of the property~~  
20 ~~tax limitations such that all expenditures shall be credited to formula revenue and unreserved~~  
21 ~~general fund balance from the preceding fiscal year prior to any credits against opt-out revenue.~~

22 Section 5. That § 13-13-76 be repealed.

23 ~~— 13-13-76. There is hereby created the Excess General Fund Oversight Board within the~~  
24 ~~Department of Education. The board shall consist of five members, appointed by the Governor.~~

1 ~~The Excess General Fund Oversight Board may exempt a school district from the provisions of~~  
2 ~~§ 13-13-73.2 if a school district can demonstrate to the Excess General Fund Oversight Board~~  
3 ~~that its general fund balance percentage is the result of special circumstances.~~

4 Section 6. There is hereby appropriated from the state general fund the sum of seven million  
5 five hundred thousand dollars (\$7,500,000), or so much thereof that may be necessary, to the  
6 twenty-first century education fund which is hereby created in the Department of Education. The  
7 secretary of the Department of Education shall annually distribute the proceeds from the fund  
8 to school districts based on average daily membership as defined in subdivision 13-13-10.1(1)  
9 at the same time that foundation program state aid is distributed to school districts pursuant to  
10 §§ 13-13-10.1 to 13-13-41, inclusive.

11 Section 7. The secretary of the Department of Education shall approve vouchers and the  
12 state auditor shall draw warrants to pay expenditures authorized by this Act.

13 Section 8. It is the intent of the Legislature to appropriate additional funds to the twenty-first  
14 century education fund in future years. The amounts the Legislature intends to appropriate are  
15 as follows:

- 16 (1) For fiscal year 2008, the sum of fifteen million dollars (\$15,000,000);
- 17 (2) For fiscal year 2009, the sum of twenty two million five hundred thousand dollars  
18 (\$22,500,000);
- 19 (3) For fiscal year 2010, the sum of thirty million dollars (\$30,000,000).

20 Section 9. For fiscal year 2011 and subsequent years, it is the intent of the Legislature that  
21 the amount appropriated to the twenty-first century education fund shall equal the amount  
22 appropriated to the fund for the most recent fiscal year increased by the annual percentage  
23 change in the consumer price index for urban wage earners and clerical workers as computed  
24 by the Bureau of Labor Statistics of the United States Department of Labor for the year before

1 the year immediately preceding the year of adjustment.

2 Section 10. School districts that meet adequate yearly progress in reading and math based  
3 on the growth model established by the Department of Education shall receive funding from the  
4 twenty-first century education fund according to the provisions of section 6 of this Act.

5 Section 11. Those school districts that fail to meet adequate yearly progress based on the  
6 growth model may apply to the department for a grant to assist the district in meeting future  
7 academic targets. In order to qualify for a grant, a school district shall submit to the department  
8 a school district improvement plan outlining the steps the district will undertake to reach  
9 adequate yearly progress, and the plan shall be approved by the secretary of education. The  
10 grants shall be awarded from funds available in the twenty-first century education fund.  
11 However, no grant may be awarded to a school district in an amount that exceeds what that  
12 school district would have received if it had achieved adequate yearly progress.

13 Section 12. That § 4-5-29.2 be amended to read as follows:

14 4-5-29.2. Pursuant to S.D. Const., Art. XII, § 6, the state investment officer shall determine  
15 the market value of the education enhancement trust fund as of December 31, 2003, and each  
16 calendar year thereafter less the investment expenses transferred pursuant to § 4-5-30. The state  
17 investment officer shall calculate an amount equal to ~~four~~ five percent of that market value,  
18 without invading principal, as eligible for distribution. For the purpose of this section, the term,  
19 principal, means the sum of all contributions to the fund. Beginning with the distribution in  
20 fiscal year 2007, the market value shall be determined by adding the market value of the trust  
21 fund at the end of the sixteen most recent calendar quarters as of December thirty-first, and  
22 dividing the sum by sixteen. Upon notice of that amount by the state investment officer, the state  
23 treasurer shall transfer the amount from the education enhancement trust fund to the state  
24 general fund as soon as practicable after July first of the next fiscal year.

1 Section 13. On July first of each fiscal year, or as soon as practicable thereafter, the state  
2 treasurer shall transfer from the state general fund an amount equal to one percent of the fair  
3 value of the education enhancement trust fund to the sparse school district fund which is hereby  
4 created in the state treasury. The purpose of the fund is to provide funding to sparse school  
5 districts pursuant to this Act.

6 Section 14. There is hereby appropriated from the sparse school district fund the sum of two  
7 million four hundred thousand dollars (\$2,400,000), or so much thereof as may be necessary,  
8 to the Department of Education for distribution to sparse school districts pursuant to this Act.

9 Section 15. Terms used in this Act mean:

- 10 (1) "Sparse school district," a school district that meets each of the following criteria:
- 11 (a) Has an average daily membership per square mile of 0.50 or less;
  - 12 (b) Has an average daily membership of five hundred or less;
  - 13 (c) Has an area of four hundred square miles or more;
  - 14 (d) Has at least five miles between its secondary attendance center or centers and  
15 that of an adjoining district;
  - 16 (e) Operates a secondary attendance center; and
  - 17 (f) Levies ad valorem taxes at the maximum rates allowed pursuant to § 10-12-42  
18 or more;
- 19 (2) "Sparsity average daily membership," calculated as follows:
- 20 (a) For sparse school districts with an adjusted average daily membership as  
21 defined in subdivision 13-13-10.1(2) of greater than two hundred seventy-five,  
22 divide the average daily membership as defined in subdivision 13-13-10.1(1)  
23 by the area of the school district in square miles;
  - 24 (b) Multiply the quotient obtained in subsection (a) times negative 0.125;

1 (c) Add 0.0625 to the product obtained in subsection (b); and

2 (d) Multiply the sum obtained in subsection (c) times the average daily  
3 membership;

4 (3) "Sparsity adjusted average daily membership," calculated as follows: For any sparse  
5 school district with an adjusted average daily membership as defined in subdivision  
6 13-13-10.1(2) of no less than one hundred, but no more than two hundred seventy-  
7 five, the sparsity adjusted average daily membership is two hundred seventy-five.

8 Section 16. At the same time that foundation program state aid is distributed to school  
9 districts pursuant to §§ 13-13-10.1 to 13-13-41, inclusive, the secretary of the Department of  
10 Education shall distribute the proceeds from the sparse school district fund to sparse school  
11 districts based on either the sparsity average daily membership calculation or the sparsity  
12 adjusted average daily membership calculation in section 15 of this Act. However, no sparse  
13 school district may receive a sparsity benefit in any year that exceeds two hundred fifty thousand  
14 dollars.