

# State of South Dakota

EIGHTY-SECOND SESSION  
LEGISLATIVE ASSEMBLY, 2007

398N0484

## HOUSE BILL NO. 1106

Introduced by: Representatives Buckingham and Van Etten and Senator Schmidt

1 FOR AN ACT ENTITLED, An Act to allow a school district to give priority to certain students  
2 who apply for open enrollment.

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

4 Section 1. That § 13-28-44 be amended to read as follows:

5 13-28-44. Each school district by November 1, 1997, shall by resolution adopt relevant  
6 standards for the acceptance and rejection of an application to enroll in the district under the  
7 provisions of §§ 13-28-40 to 13-28-47, inclusive. The board shall adopt standards through  
8 official board action, set them forth in writing, and make them available to any individual upon  
9 receiving an oral or written request. Standards shall be limited to the capacity of a program,  
10 class, grade level, and school building operated by the board and the pupil/teacher ratio. If the  
11 school district receives more applications than it has the capacity to accept, the school district  
12 may give priority to any application from a student who is the child of a person on active duty  
13 in the armed forces of the United States and whose duty station is located within that school  
14 district or to any application from a student who is the child of an employee of that school  
15 district. Discrimination based on race, gender, religious affiliation, or disability is prohibited.  
16 If two or more children from a family residing in the same household must enroll in different



1 school districts as the result of a board's denial of an application to transfer from a resident  
2 district or to enroll in a nonresident district under the provisions of §§ 13-28-40 to 13-28-47,  
3 inclusive, neither the resident board nor the nonresident board may deny the application.  
4 However, two or more children from a family residing in the same household who are eligible  
5 for kindergarten through twelfth grade may open enroll only if, pursuant to § 13-28-42.1, the  
6 nonresident district can provide an appropriate instructional program and facilities, including  
7 transportation, for the child in need of special education or special education and related  
8 services. If the nonresident district cannot meet the provisions of § 13-28-42.1 for the child in  
9 need of special education or special education and related services, the nonresident district may  
10 deny that child's application for open enrollment.

11 The decision of a local school board regarding a student's application for open enrollment  
12 or a request to return to the resident district under the provisions of §§ 13-28-40 to 13-28-47,  
13 inclusive, is subject to de novo appeal under the provisions of chapter 13-46. The Department  
14 of Education may promulgate rules pursuant to chapter 1-26 specifying procedural and  
15 administrative requirements for the implementation of the open enrollment program and related  
16 transfers and enrollments under the provisions of §§ 13-28-40 to 13-28-47, inclusive.