

# State of South Dakota

EIGHTY-SECOND SESSION  
LEGISLATIVE ASSEMBLY, 2007

228N0150

## SENATE JOINT RESOLUTION NO. 13

Introduced by: Senators Apa and Abdallah and Representatives Haverly, Rausch, and Tidemann

1 A JOINT RESOLUTION, Proposing and submitting to the electors at the next general election  
2 amendments to Article XIII of the Constitution of the State of South Dakota, relating to the  
3 use of certain trust funds associated with the sale of the State cement plant and to the  
4 authorization of the use of such funds for the construction and maintenance of energy  
5 transmission facilities.

6 BE IT RESOLVED BY THE SENATE OF THE STATE OF SOUTH DAKOTA, THE HOUSE  
7 OF REPRESENTATIVES CONCURRING THEREIN:

8 Section 1. That at the next general election held in the state, the following amendments to  
9 Article XIII of the Constitution of the State of South Dakota, as set forth in sections 2 to 5,  
10 inclusive, of this Joint Resolution, which are hereby agreed to, shall be submitted to the electors  
11 of the state for approval.

12 Section 2. That Article XIII, section 20 of the Constitution of the State of South Dakota, be  
13 amended to read as follows:

14 § 20. The net proceeds derived from the sale of state cement enterprises shall be deposited  
15 by the South Dakota Cement Commission in a trust fund hereby created to benefit the citizens



1 of South Dakota. The South Dakota Investment Council or its successor shall invest the trust  
2 fund in stocks, bonds, mutual funds, and other financial instruments as provided by law. ~~Each~~  
3 Except as provided in Article XIII, section 22 of the Constitution of the State of South Dakota,  
4 each fiscal year beginning in fiscal year 2001, a transfer of twelve million dollars shall be made  
5 from the trust fund to the state general fund as provided by law. However, if money is returned  
6 to the trust fund pursuant to Article XIII, section 22 of the Constitution of the State of South  
7 Dakota, no such transfer to the general fund may be made unless the value of the trust fund is  
8 greater than or equal to two hundred fifty million dollars.

9 Section 3. That Article XIII, section 21 of the Constitution of the State of South Dakota, be  
10 amended to read as follows:

11 § 21. Except as provided in Article XIII, ~~section 20~~ sections 20 and 22 of the Constitution  
12 of the State of South Dakota, the original principal of the trust fund shall forever remain  
13 inviolate. However, except as provided in Article XIII, section 22 of the Constitution of the  
14 State of South Dakota, the Legislature shall, by appropriation, make distributions from the  
15 difference between the twelve million dollar annual general fund transfer and five percent of the  
16 market value of the trust fund for the support of education, but not for the replacement of state  
17 aid to general education or special education, if the increase in the market value of the trust fund  
18 in that fiscal year was sufficient to maintain the original principal of the trust fund after such  
19 distributions. ~~Beginning~~ However, if money is returned to the trust fund pursuant to Article XIII,  
20 section 22 of the Constitution of the State of South Dakota, no such distribution may be made  
21 unless the value of the trust fund is greater than or equal to two hundred fifty million dollars.  
22 Except as provided in Article XIII, section 22 of the Constitution of the State of South Dakota,  
23 beginning with fiscal year 2006, the market value of the trust fund shall be determined by  
24 adding the market value of the trust fund at the end of the sixteen most recent calendar quarters,

1 and dividing that sum by sixteen.

2 Section 4. That Article XIII of the Constitution of the State of South Dakota, be amended  
3 by adopting a new section to read as follows:

4 § 22. The Legislature shall, by appropriation, transfer any money in the trust fund created  
5 pursuant to Article XIII, section 20 of the Constitution of the State of South Dakota to a special  
6 fund created by the Legislature for use by any entity that is established by the Legislature to  
7 provide for the financing, construction, development, maintenance, and operation of new or  
8 upgraded energy transmission facilities. Money transferred from the trust fund to the special  
9 fund may only be used for such purposes and for costs associated with such purposes or for the  
10 support of education as provided in this section. The money shall be transferred upon the request  
11 of the entity. Money in the special fund shall be invested in stocks, bonds, mutual funds, and  
12 other financial instruments as provided by law. The proportion of any profits that result from  
13 the operation of any such energy transmission facility that is derived from the money expended  
14 from the trust fund for the facility in relation to the total cost of the facility shall be appropriated  
15 by the Legislature for the support of education.

16 If the unobligated balance in the special fund at the end of any fiscal year is less than two  
17 hundred fifty million dollars, two million five hundred thousand dollars or the remaining  
18 unobligated balance, whichever is less, shall be appropriated by the Legislature from the special  
19 fund for the support of education. If the unobligated balance in the special fund at the end of any  
20 fiscal year is two hundred fifty million dollars or greater, five million dollars shall be  
21 appropriated by the Legislature from the special fund for the support of education. No funding  
22 pursuant to this section in support of education may be for the replacement of state aid to  
23 general education or special education.

24 If the amount of money that has been transferred from the trust fund to the special fund

1 pursuant to is not expended or obligated for the purposes specified in this section within ten  
2 years after the effective date of this section, this section is repealed and the remaining  
3 unobligated funds shall revert to the trust fund.