

# State of South Dakota

EIGHTY-SECOND SESSION  
LEGISLATIVE ASSEMBLY, 2007

596N0597

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1171** - 02/14/2007

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

Introduced by: Representatives Rhoden, Brunner, Deadrick, Dykstra, Faehn, Krebs, Rave,  
and Turbiville

1 FOR AN ACT ENTITLED, An Act to enhance education in the state and to make an  
2 appropriation therefor.

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

4 Section 1. There is hereby created in the state treasury the education enhancement tobacco  
5 tax fund.

6 Section 2. That § 10-50-52 be amended to read as follows:

7 10-50-52. The first thirty million dollars in revenue collected annually pursuant to this  
8 chapter shall be deposited in the general fund. All revenue in excess of thirty million dollars  
9 collected annually shall be deposited in the tobacco prevention and reduction trust fund. Five  
10 million dollars of the revenue deposited annually in the tobacco prevention and reduction trust  
11 fund pursuant to this section shall be used to implement the tobacco prevention and reduction  
12 program. Thirty-three percent of any revenue deposited in the tobacco prevention and reduction  
13 trust fund in excess of five million dollars shall be transferred to the property tax reduction fund.  
14 Thirty-three percent of any revenue deposited in the tobacco prevention and reduction trust fund



1 in excess of five million dollars shall be transferred to the education enhancement ~~trust~~ tobacco  
2 tax fund. Thirty-four percent of any revenue deposited in the tobacco prevention and reduction  
3 trust fund in excess of five million dollars shall be transferred to the health care ~~trust~~ tobacco  
4 tax fund.

5 Section 3. There is hereby created the teacher compensation assistance program within the  
6 Department of Education to provide funds to school districts for the purpose of assisting school  
7 districts with teacher compensation. The department shall provide four-fifths of the funds for  
8 the teacher compensation assistance program to each participating school district. The Board  
9 of Education shall promulgate rules, pursuant to chapter 1-26, to create an oversight board  
10 appointed by the secretary of education for approval of applications as well as guidelines for  
11 district applications based on district instructional goals, teacher performance, market  
12 compensation or other specific district requirements as approved by the department.  
13 Participation in the program is discretionary. District applications shall be approved by the local  
14 board of education. The applications shall be reviewed by the teacher compensation assistance  
15 program oversight board and shall be recommended to the Board of Education for final  
16 approval.

17 Section 4. The secretary of the Department of Education shall establish seven education  
18 service agencies to provide services and leadership to school districts on a regional basis. Each  
19 education service agency shall serve the school districts in a particular region of the state as  
20 determined by the secretary of education, and the secretary shall ensure that every school district  
21 is served by an education service agency. Each education service agency may be incorporated  
22 in the state of South Dakota as a nonprofit corporation organized under chapters 47-22 to 47-28,  
23 inclusive, which is exempt from taxation pursuant to 501(a) of the Internal Revenue Code, 26  
24 U.S.C. Section 501(a), and may be listed as an exempt organization in Section 501(c) of the

1 Internal Revenue Code, 26 U.S.C. Section 501(c), or an education service agency may be  
2 directed by an educational cooperative.

3 Section 5. Education service agencies are hereby authorized and empowered to develop,  
4 manage, and provide support services and programs as determined by the needs of the local  
5 school districts and as approved by the secretary of education. An education service agency may:

6 (1) Act primarily as a service agency in providing services and programs as identified  
7 and requested by the school districts it serves, including professional development,  
8 instructional materials, educational technology, curriculum development, and  
9 alternative educational programs;

10 (2) Provide for economy, efficiency, and cost effectiveness in the cooperative delivery  
11 and purchase or lease of educational services, materials, and products; the services  
12 may include purchasing cooperatives, insurance cooperatives, business management  
13 services, auditing and accounting services, school safety and risk prevention training,  
14 data processing, and assistance with student records;

15 (3) Provide administrative services such as communications and public relations  
16 services, employee background checks, grants management services, printing and  
17 publication services, and internship services;

18 (4) Provide educational services through leadership and research and development in  
19 elementary and secondary education;

20 (5) Work cooperatively with the Department of Education, institutions of higher  
21 education, local school districts, and other educational organizations to support,  
22 develop, and implement long-range plans and strategic goals for the enhancement of  
23 educational opportunities in elementary and secondary education; and

24 (6) Serve, when appropriate and if funds are available, as a repository, clearinghouse,

1           and administrator of federal, state, local, and private funds on behalf of school  
2           districts that may participate in special programs, projects, or grants in order to  
3           enhance the quality of education in South Dakota schools.

4           Section 6. Each education service agency shall have an advisory board. The advisory board  
5           shall meet at least twice a year, and its membership shall include the superintendent or a  
6           designee of the superintendent from every school district served by the agency. The advisory  
7           board shall provide guidance to the agency relative to the needs of the school districts and how  
8           the education service agency might address those needs.

9           Section 7. Beginning in 2008, the advisory board for each education service agency shall,  
10          upon receiving the approval of the secretary of education, appoint a fiscal agent to oversee the  
11          daily operations of the education service agency. Once appointed, the fiscal agent shall serve  
12          at the pleasure of the board. However, a board's decision to rescind a fiscal agent's appointment  
13          shall be approved by the secretary of education.

14          Section 8. A statewide leadership board, composed of the fiscal agent from each education  
15          service agency and a representative from the Department of Education, shall be created to  
16          establish uniform policies among the education service agencies and to allow for  
17          communication and the exchange of ideas.

18          Section 9. Upon receiving approval from the Department of Education, each education  
19          service agency, with input from both the advisory board and the statewide leadership board,  
20          may, as funding permits, contract with other entities to provide services to the school districts  
21          it serves.

22          Section 10. Each year, the Department of Education shall conduct an assessment and a  
23          performance evaluation of each education service agency and submit its findings in writing to  
24          the Legislature.

1 Section 11. The South Dakota Board of Education shall promulgate rules pursuant to chapter  
2 1-26 establishing the evaluation process and the criteria and performance measures the  
3 department will use to evaluate the education service agencies.

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

6 Section 13. For the fiscal year beginning on July 1, 2007, there is hereby appropriated from  
7 the education enhancement tobacco tax fund the sum of nine million dollars (\$9,000,000), or  
8 so much thereof as may be necessary, to the Department of Education and shall be distributed  
9 as follows:

10 (1) One million dollars for the teacher compensation assistance program created in  
11 section 3 of this Act;

12 (2) One million seven hundred thousand dollars for the education service agencies  
13 established in section 4 of this Act;

14 (3) One million five hundred thousand dollars for career and technical education  
15 programs;

16 (4) Three million one hundred thousand dollars to apply to any increases in the total cost  
17 of foundation program state aid or other educational programs that resulted from  
18 legislation enacted during the Eighty-Second Session of the South Dakota Legislature  
19 based on the findings of the two-year study of school funding that was undertaken by  
20 the Department of Education in 2005; and

21 (5) One million seven hundred thousand dollars to be distributed to school districts on  
22 the basis of fall enrollment as defined by this Act.

23 Section 14. For the fiscal year beginning on July 1, 2007, there is hereby appropriated from  
24 the general fund the sum of five million dollars (\$5,000,000), or so much thereof as may be

necessary, to the Department of Education and shall be distributed as follows:

(1) Four million dollars for the teacher compensation assistance program created in section 3 of this Act; and

(2) One million dollars for career and technical education programs.

Section 15. For the fiscal year beginning on July 1, 2008 and for each fiscal year thereafter, the secretary of education shall expend the monies deposited in the education enhancement tobacco tax fund through the normal budget process as set forth in § 4-7-9. Expenditures from the fund shall support the following education programs:

(1) The teacher compensation assistance program created in section 3 of this Act;

(2) The education service agencies established in section 4 of this Act;

(3) Career and technical education programs; and

(4) Other education program expenditures as set forth by the Legislature.

Section 16. For the purposes of this Act, fall enrollment is the number of kindergarten through twelfth grade students enrolled in all schools operated by the school district on the last Friday of September of the previous school year minus the number of students for whom the district receives tuition, except nonresident students who are in the care and custody of a state agency and are attending a public school and students for whom tuition is being paid pursuant to § 13-28-42.1, plus the number of students for whom the district pays tuition.