



2023 South Dakota Legislature

Senate Bill 37

Introduced by: The Committee on Education at the request of the Board of Regents

1 **An Act to revise provisions pertaining to the South Dakota School for the Deaf.**

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

3 **Section 1. That § 3-18-1 be AMENDED:**

4 **3-18-1.** The term, public employee, as used in this chapter means any person
 5 holding a position by appointment or employment in the government of the State of South
 6 Dakota or in the government of any one or more of the political subdivisions thereof, or
 7 in the service of the public schools, or in the service of any authority, commission, or
 8 board, or any other branch of the public service. The term does not include:

- 9 (1) Elected officials and persons appointed to fill vacancies in elective offices and
 10 members of any board or commission;
- 11 (2) Administrators except elementary and secondary school administrators,
 12 administrative officers, directors, or chief executive officers of a public employer or
 13 major divisions thereof as well as chief deputies, first assistants, and any other
 14 public employees having authority in the interest of the public employer to hire,
 15 transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline
 16 other public employees, or the responsibility to direct them, or to adjust their
 17 grievances, or to effectively recommend any action, if in connection with the
 18 foregoing, and the exercise of the authority is not of a merely routine or clerical
 19 nature, but requires the use of independent judgment;
- 20 (3) Students working as part-time employees twenty hours per week or less;
- 21 (4) Temporary public employees employed for a period of four months or less;
- 22 (5) Commissioned and enlisted personnel of the South Dakota National Guard;
- 23 (6) Judges and employees of the unified court system;
- 24 (7) Legislators and the full-time and part-time employees of the legislature or any
 25 state agency that statutorily is directed by the legislative branch; or

1 (8) Any person employed by the Board of Regents or employed by an institution under
 2 the ~~authority control~~ of the Board of Regents, except a person employed at ~~the~~
 3 South Dakota ~~School~~ Services for the Deaf or the South Dakota School for the Blind
 4 and the Visually Impaired, who is not otherwise excluded by subdivision (2), (3),
 5 or (4).

6 This section does not preclude employees described in subdivisions (1) to (8),
 7 inclusive, from joining professional, noncollective bargaining organizations.

8 **Section 2. That § 5-10-1.2 be AMENDED:**

9 **5-10-1.2.** The commissioner of school and public lands shall deposit revenue
 10 collected for state endowed institutions under the control of the Board of Regents,
 11 pursuant to § 5-10-1 and chapters 10-4 and 10-6, in the Board of Regents endowed
 12 institution interest and income fund, created by § 5-10-1.1, and credit the appropriate
 13 institutional account within the fund. On a periodic basis, the commissioner shall allocate
 14 the money to the appropriate institutions.

15 The total allocation for an institution for a fiscal year ~~shall be~~ is the lesser of that
 16 institution's revenue for the fiscal year plus the beginning cash balance of the institution's
 17 account or:

- 18 \$ 236,041 for the University of South Dakota;
- 19 \$ 548,451 for South Dakota State University;
- 20 \$ 133,022 for South Dakota School of Mines and Technology;
- 21 \$ 183,393 for Northern State University;
- 22 \$ 173,360 for Dakota State University;
- 23 \$ 173,360 for Black Hills State University;
- 24 \$ 97,959 for the ~~School~~ South Dakota Services for the Deaf;
- 25 \$ 94,712 for the School for the Blind and the Visually Impaired; and
- 26 \$ 77,745 for the agricultural experiment station.

27 Revenue in excess of the allocation shall be credited to the corresponding
 28 institutional account. If the cash balance of any institutional account exceeds fifty percent
 29 of the maximum allocation for that institution at the end of the fiscal year, the
 30 commissioner shall allocate the portion over fifty percent to the institution in the next
 31 fiscal year in addition to the normal allocation.

32 **Section 3. That § 13-33B-3 be AMENDED:**

1 **13-33B-3.** In considering placement and the least restrictive environment for a
 2 deaf ~~and or~~ hard-of-hearing ~~child~~student, the individualized education program team shall
 3 consider the unique communications needs of the ~~child as discussed~~student, in accordance
 4 with § 13-33B-2. In making that determination, the individualized education program
 5 team shall consider ~~particularly those~~ program options that provide the ~~pupil~~student with
 6 an appropriate and equal opportunity for communication access, including ~~the state school~~
 7 ~~for the deaf which may be the least restrictive environment for a deaf or hard-of-hearing~~
 8 ~~child~~ those available through South Dakota Services for the Deaf.

9 **Section 4. That § 13-33B-9 be AMENDED:**

10 **13-33B-9.** The ~~superintendent of the State School~~administrator of South Dakota
 11 Services for the Deaf shall establish an advisory committee ~~for purposes of soliciting to~~
 12 solicit input from experts on the selection of language developmental milestones for
 13 children who are deaf or hard-of-hearing that are equivalent to ~~experts~~milestones for
 14 children who are not deaf or hard-of-hearing, for inclusion in the parent resource pursuant
 15 to §§ 13-33B-5 and 13-33B-7.

16 The advisory committee may also make recommendations on the selection and
 17 administration of the educator tools or assessments ~~selected pursuant to~~referenced in
 18 § 13-33B-6.

19 The advisory committee shall consist of at least nine but no more than fifteen
 20 volunteers, at least four of whom ~~shall be~~are deaf or hard-of-hearing, and all of whom
 21 ~~shall practice~~ within the fields of education or services for the deaf ~~and or~~ hard-of-hearing.
 22 The advisory committee ~~shall~~must include:

- 23 (1) A parent of a child who is deaf or hard-of-hearing, who uses both ASL and English;
 24 (2) A parent of a child who is deaf or hard-of-hearing, who uses only spoken English,
 25 with or without visual supplements;
 26 (3) A parent of a child who is Deaf-Plus;
 27 (4) A representative from ~~the State School~~South Dakota Services for the Deaf ~~outreach,~~
 28 who is fluent in both ASL and English;
 29 (5) A representative from the Department of Education; and
 30 (6) At least four members ~~which~~who may be any of the following:
 31 (a) An expert who researches language outcomes for deaf ~~and or~~ hard-of-
 32 hearing children, using ASL and English;
 33 (b) A credentialed teacher of deaf ~~and or~~ hard-of-hearing students, with
 34 expertise in curriculum and instruction in ASL and English;

- 1 (c) A credentialed teacher of deaf ~~and~~or hard-of-hearing students, with
 2 expertise in curriculum and instruction in spoken English, with or without
 3 visual supplements;
- 4 (d) An advocate from a ~~South Dakota~~an association in this state that represents
 5 the deaf ~~who~~and advocates for teaching, using both ASL and English;
- 6 (e) An early intervention specialist who works with deaf ~~and~~or hard-of-hearing
 7 infants and toddlers, using both ASL and English;
- 8 (f) A credentialed teacher of deaf ~~and~~or hard-of-hearing students, with
 9 expertise in ASL and English language assessments;
- 10 (g) A representative from a parent training information center in ~~South~~
 11 ~~Dakota~~this state;
- 12 (h) A representative from an organization that provides communication
 13 services for the deaf;
- 14 (i) A psychologist ~~with~~who has expertise in assessing deaf ~~and~~or hard-of-
 15 hearing children ~~who~~and is fluent in ASL and English;
- 16 (j) A speech language pathologist; or
- 17 (k) A pediatric audiologist.

18 The ~~advisory~~ committee may ~~also~~ advise the department on the content and
 19 administration of ~~the~~ instruments used to assess the language development and literacy
 20 development of deaf and or hard-of-hearing children's language and literacy
 21 ~~development~~children, to ensure the appropriate use of the instruments with deaf or hard-
 22 of-hearing children.

23 The committee may make recommendations regarding future research to improve
 24 the measurement of progress of deaf ~~and~~or hard-of-hearing children, in language and
 25 literacy.

26 **Section 5. That § 13-49-14.12 be AMENDED:**

27 **13-49-14.12.** The Board of Regents may deposit any moneys held by it pursuant
 28 to § 13-49-14.2, but not needed to cover liabilities ~~heretofore incurred~~, into a special fund
 29 ~~hereby~~ created in the South Dakota school and public lands endowment, ~~to be~~ known as
 30 the South Dakota ~~School Services~~ for the Deaf and the South Dakota School for the Blind
 31 and Visually Handicapped ~~maintenance and repair~~ Impaired support fund.

32 All moneys so deposited ~~shall become~~ are part of the school and public lands
 33 endowment, whose principal ~~shall~~ must be held inviolate, and ~~their~~ the earnings ~~shall~~ must
 34 be made available to the ~~Board of Regents to address the cost of~~ board to:

- 1 (1) ~~Support~~ routine maintenance and repair ~~of at the physical plant of the South~~
- 2 ~~Dakota School for the Deaf and the South Dakota School for the~~ Blind and Visually
- 3 ~~Handicapped~~Impaired; and
- 4 (2) Support locations utilized by South Dakota Services for the Deaf.

5 **Section 6. That § 13-49-14.13 be AMENDED:**

6 **13-49-14.13.** ~~Each~~ A person hired ~~at by~~ the South Dakota School for the Blind
7 and Visually Impaired and ~~the a~~ person hired by South Dakota School Services for the
8 ~~Deaf to serve as superintendent or principal, in a teaching or teaching assistant position,~~
9 ~~in a certificated or licensed clinical employment position, or on the residence hall staff in~~
10 ~~any capacity shall agree to~~ must submit to a fingerprint-based criminal
11 ~~background investigation, by means of fingerprint checks~~ check by the Division of Criminal
12 Investigation and the Federal Bureau of Investigation, if the person is to serve:

- 13 (1) As a superintendent;
- 14 (2) As an administrator;
- 15 (3) As a principal;
- 16 (4) In a teaching or teaching assistant position;
- 17 (5) In a certificated or licensed clinical position; or
- 18 (6) As residence hall staff.

19 The hiring ~~institution~~ entity shall submit ~~completed~~ fingerprint cards to the Division
20 of Criminal Investigation before the ~~prospective new employee~~ person enters into service.

21 If no disqualifying record is identified at the state level, the fingerprints ~~shall~~ must
22 be forwarded by the Division of Criminal Investigation to the Federal Bureau of
23 Investigation for a national criminal ~~history record~~ background check.

24 Any person ~~whose employment is~~ subject to the requirements of this section may
25 enter into service on a temporary basis, pending the receipt of results from the background
26 ~~investigation~~ check. The employing ~~institution~~ entity may, without liability, withdraw ~~its an~~
27 offer of employment, or terminate the temporary employment, without notice, if the report
28 reveals that the person has been convicted of any crime involving moral turpitude,
29 including traffic in narcotics, ~~that~~ which might justify suspension or revocation of a
30 teaching ~~license~~ certificate pursuant to § 13-42-10, or which otherwise reveals
31 circumstances that ~~reasonably suggest that~~ the person should not be employed ~~in the~~
32 ~~special school setting.~~

33 **Section 7. That § 13-49-39 be AMENDED:**

1 **13-49-39.** The collective bargaining provisions set forth in chapters 3-18 and 60-
 2 9A do not apply to any person employed by the Board of Regents or employed by an
 3 institution under the ~~authority control~~ of the Board of Regents, except for public employees
 4 at ~~the South Dakota School Services~~ for the Deaf ~~or~~ and the South Dakota School for the
 5 Blind and Visually Impaired, as provided in § 3-18-1.

6 **Section 8. That § 13-51A-1 be AMENDED:**

7 **13-51A-1.** Terms used in this chapter mean:

- 8 (1) "Acquire," ~~includes~~ to purchase, erect, build, construct, reconstruct, complete,
 9 repair, replace, alter, extend, better, equip, develop, and improve a project,
 10 including the acquisition and clearing of a site or sites therefor;
- 11 (2) "Board," the Board of Regents or its successor;
- 12 (3) "Federal agency," the United States of America, the President of the United States
 13 of America, the Department of Housing and Urban Development, or such other
 14 agency or agencies of the United States of America as may be designated or
 15 created to make loans or grants or both;
- 16 (4) "Institution," ~~includes any of~~ the following:
- 17 (a) Black Hills State University, located at Spearfish, South Dakota;
- 18 (b) Dakota State University, located at Madison, South Dakota;
- 19 (c) Northern State University, located at Aberdeen, South Dakota;
- 20 (d) South Dakota State University, located at Brookings, South Dakota;
- 21 (e) University of South Dakota, located at Vermillion, South Dakota;
- 22 (f) South Dakota School of Mines and Technology, located at Rapid City, South
 23 Dakota;
- 24 (g) School for the Blind and the Visually Impaired, located at Aberdeen, South
 25 Dakota; and
- 26 (h) ~~School South Dakota Services~~ for the Deaf, ~~located at Sioux Falls, South~~
 27 Dakota;
- 28 and their branches;
- 29 (5) "Project," ~~includes~~ revenue producing buildings, structures, and facilities which, as
 30 determined by the board, are required by, or necessary for the use or benefit of,
 31 each such institution, including, without limiting the generality of the foregoing,
 32 the following: student residence halls; apartments; staff housing facilities;
 33 dormitories; health, hospital, or medical facilities; dining halls; student union
 34 buildings; field houses; stadiums; physical education installations and facilities;

- 1 auditoriums; facilities for student or staff services; any facility or building leased
 2 to the United States of America; off-street parking facilities; whether heretofore
 3 acquired and now or hereafter used for any or all of the purposes aforesaid, as
 4 described in or as may be hereafter acquired under this chapter, with all equipment
 5 and appurtenant facilities; or any one, or more than one, or all, of the foregoing,
 6 or any combination thereof, for each such institution;
- 7 (6) "Each such institution," ~~includes~~ any institution or any combination of institutions
 8 as determined by the board.

9 **Section 9. That § 13-61-3 be AMENDED:**

10 **13-61-3.** The Board of Regents shall ~~make promulgate~~ rules, in accordance with
 11 chapter 1-26, to provide for the government governance of the South Dakota School for
 12 the Blind and the Visually Impaired, ~~consistent with the laws of this state, and in~~
 13 ~~compliance with chapter 1-26, and to,~~

14 The board shall employ a superintendent and ~~such~~ instructors and staff ~~as may be~~
 15 ~~necessary. The superintendent and the instructional staff shall~~ who have professional
 16 knowledge concerning the educational needs of students with sensory disabilities.

17 The board may hire one person to serve as both the superintendent of ~~both~~ the
 18 South Dakota School for the Blind and the Visually Impaired and ~~the State School as the~~
 19 administrator of South Dakota Services for the Deaf. The person shall receive a single
 20 salary.

21 **Section 10. That § 13-62-1 be AMENDED:**

22 **13-62-1.** ~~The State School~~ South Dakota Services for the Deaf, ~~located at Sioux~~
 23 ~~Falls, in Minnehaha County, shall be~~ is under the control of the Board of Regents and ~~so~~
 24 must be maintained and managed as to afford an appropriate education to provide
 25 assistance and audiology and outreach services to ~~those~~ persons entitled to ~~its~~ the benefits
 26 of a school for the deaf.

27 **Section 11. That § 13-62-2 be AMENDED:**

28 **13-62-2.** The Board of Regents shall employ ~~a superintendent and such instructors~~
 29 ~~and staff as may be~~ staff necessary ~~for the State School to meet the needs of those~~
 30 persons entitled to benefits through South Dakota Services for the Deaf.

1 ~~The superintendent and the instructional staff~~ administrator shall have professional
 2 knowledge concerning the educational needs of students with sensory disabilities. The
 3 ~~superintendent-administrator~~ shall work ~~towards increasing to increase~~ knowledge and
 4 skill in the use of American sign language, ~~to the extent feasible.~~

5 The board may hire one person to serve as both the superintendent of ~~both~~ the
 6 South Dakota School for the Blind and the Visually Impaired and ~~the State School as the~~
 7 administrator of South Dakota Services for the Deaf. The person shall receive a single
 8 salary.

9 **Section 12. That § 13-62-3 be AMENDED:**

10 **13-62-3.** The ~~superintendent-administrator~~ shall give a bond to the state in the an
 11 amount ~~which shall be fixed by the Board of Regents,~~ for the faithful discharge of his
 12 duties, ~~which.~~ The bond shall must be approved, recorded, and filed ~~according to the~~
 13 ~~provisions of this code relating to~~ in the same manner as the official bonds of state officers.

14 **Section 13. That § 13-62-4 be AMENDED:**

15 **13-62-4.** The Board of Regents shall prescribe the duties of the ~~superintendent~~
 16 ~~and shall have the power to employ and~~ administrator. The board may fix the
 17 compensation of ~~all other employees at the school~~ staff at South Dakota Services for the
 18 Deaf.

19 **Section 14. That § 13-62-5 be AMENDED:**

20 **13-62-5.** ~~It shall be the duty of the~~ The Board of Regents ~~to shall~~ preserve and
 21 care for ~~buildings, grounds, and all the~~ all property ~~belonging to the school~~ used by South
 22 Dakota Services for the Deaf.

23 **Section 15. That § 13-62-6 be AMENDED:**

24 **13-62-6.** ~~All persons~~ Any resident of this state who is under twenty-one years of
 25 age, ~~whose~~ and has a hearing impairment ~~status that precludes successful receiving~~
 26 educational benefits of ~~through a public schools,~~ who are residents of the state, and
 27 capable of receiving instruction ~~are eligible for programs provided by the state school for~~
 28 ~~the deaf.~~ Any school is entitled to receive services through South Dakota Services for the
 29 Deaf.

1 South Dakota Services for the Deaf may assist any person who is not a resident of
2 the state, but provided:

3 (1) The person meets all of the other qualifications included the criteria established in
4 this section, may be admitted to the school provided the;

5 (2) The Board of Regents determines that the admittance does not exclude eligible
6 residents of the no resident of this state and upon payment of board, tuition and
7 care is denied assistance as a result; and

8 (3) Payment is received for any charges established by the Board of Regents.

9 **Section 16. That § 13-62-12 be AMENDED:**

10 **13-62-12.** ~~It shall be the duty of the~~The Board of Regents ~~to apply all funds shall~~
11 ensure the proper allocation of any money, effects, and property which may be received,
12 faithfully to the received for the use and benefit of the schoolSouth Dakota Services for
13 the Deaf.

14 **Section 17. That § 13-62-13 be AMENDED:**

15 **13-62-13.** ~~It shall be the duty of the~~The Board of Regents ~~to fix shall establish~~ the
16 annual operating period of the academic year of such school, which shall be in compliance
17 with §§ 13-26-1 to 13-26-6, inclusive South Dakota Services for the Deaf.

18 **Section 18. That § 13-62-14 be AMENDED:**

19 **13-62-14.** ~~It shall be the duty of the~~The Board of Regents ~~to make shall~~
20 promulgate rules, in ~~compliance~~accordance with chapter 1-26, ~~as may be necessary for~~
21 ~~the efficient government and operation of the school~~ governance and operations of South
22 Dakota Services for the Deaf.

23 **Section 19. That § 13-62-15 be AMENDED:**

24 **13-62-15.** The Board of Regents may lease, for commercial purposes, portions of
25 ~~School for the Deaf buildings that are no longer~~ not regularly and actively used by ~~the~~
26 ~~School for the Deaf in the conduct of school's operations~~South Dakota Services for the
27 Deaf. The purposes, terms, and conditions of each lease ~~shall be both~~ must be economical
28 and consistent with the stewardship of public property.

29 The board may permit a lessee to undertake renovations ~~on the following~~
30 conditions if:

- 1 (1) The ~~construction-renovation~~ is ~~of~~-comparable to the kind and quality ~~as of~~ the
- 2 original structure;
- 3 (2) The board has the right to prior review and approval of renovation designs and
- 4 specifications that may affect shared building structural systems and related
- 5 equipment and infrastructure;
- 6 (3) The lessee provides such as-built documentation as the board may require; and
- 7 (4) The lessee agrees that the title to the renovations ~~shall vest~~ vests with the board
- 8 on behalf of the state.

9 The board shall establish lease ~~rental~~-rates that are consistent with ~~the rates for~~

10 those of commercial leases for comparable properties in Sioux Falls and Minnehaha

11 County. The board may offer the leases to the public in any commercially reasonable

12 manner.

13 Lease income received ~~through the leases~~ by the board pursuant to this section ~~shall~~

14 be is continuously appropriated to the ~~School for the Deaf~~ board for use in maintaining the

15 property and supporting the operations of ~~the School~~ South Dakota Services for the Deaf.

16 **Section 20. That § 35-2-6.1 be AMENDED:**

17 **35-2-6.1.** No on-sale or off-sale license may be granted under this title to operate

18 on the campus of any state educational institution. However, if the outside boundary of

19 any state educational institution is extended, ~~z~~ this section does not apply to any license

20 granted previous to the extension.

21 This section does not apply to ~~the school for the deaf established by chapter 13-62~~

22 South Dakota Services for the Deaf.

23 For the purpose of this section, the term, campus, means only the area

24 immediately surrounding the buildings used for classrooms, administrative offices, and

25 housing.

26 Notwithstanding ~~the provisions of~~ this section:

- 27 (1) An alcoholic beverage license may be issued pursuant to subdivisions 35-4-2(12)
- 28 and (16) for the sole purpose of permitting the licensee to engage in the periodic
- 29 retail sale of malt beverages, ~~z~~ or wine, ~~z~~ for consumption on-site, ~~z~~ at a location and
- 30 time, ~~z~~ authorized by the Board of Regents, ~~that which~~ involves the performing arts,
- 31 intercollegiate athletics, fund raising, a reception, a conference, or an occasional
- 32 or scheduled event at a facility used for performing arts, intercollegiate athletics,
- 33 events, or receptions; and

- 1 (2) A special events license may be issued, pursuant to §§ 35-4-124, 35-4-124.1, and
2 35-4-125, for a special event authorized by the Board of Regents ~~that,~~ which
3 involves the performing arts, intercollegiate athletics, fund raising, a reception, a
4 conference, or an occasional or scheduled event.