



2020 South Dakota Legislature

Senate Bill 111

Introduced by: **Senator Wiik**

1 **An Act to exclude certain wind energy tax revenue from the state aid to education**
 2 **formula.**

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

4 **Section 1.** That § 13-13-10.1 be AMENDED:

5 **13-13-10.1. Definitions.**

6 The education funding terms and procedures referenced in this chapter are defined
 7 as follows:

8 (1) ~~Repealed by SL 2016, ch 83, § 4;~~

9 ~~(1A)~~—Nonresident students who are in the care and custody of the Department of Social
 10 Services, the Unified Judicial System, the Department of Corrections, or other state
 11 agencies and are attending a public school may be included in the fall enrollment of
 12 the receiving district when enrolled in the receiving district;

13 (2) ~~Repealed by SL 2016, ch 83, § 4;~~

14 ~~(2A)~~—"Fall enrollment," is calculated as follows:

15 (a) Determine the number of kindergarten through twelfth grade students
 16 enrolled in all schools operated by the school district on the last Friday of
 17 September of the current school year;

18 (b) Subtract the number of students for whom the district receives tuition except
 19 for:

20 (i) Nonresident students who are in the care and custody of a state agency
 21 and are attending a public school district; and

22 (ii) Students who are being provided an education pursuant to § 13-28-
 23 11;

24 (c) Add the number of students for whom the district pays tuition.

25 When computing state aid to education for a school district pursuant to § 13-13-
 26 73, the secretary of the Department of Education shall use the school district's fall
 27 enrollment;

1 ~~(2B)~~(3) ~~Repealed by SL 2010, ch 84, § 1;~~

2 ~~(2C)~~—"Target teacher ratio factor," is:

3 (a) For school districts with a fall enrollment of two hundred or less, the target
4 teacher ratio factor is 12;

5 (b) For districts with a fall enrollment of greater than two hundred, but less than
6 six hundred, the target teacher ratio factor is calculated as follows:

7 (1) Multiplying the fall enrollment by .00750;

8 (2) Adding 10.50 to the product of subsection (b)(1);

9 (c) For districts with a fall enrollment of six hundred or greater, the target teacher
10 ratio factor is 15.

11 The fall enrollment used for the determination of the target teacher ratio for a school
12 district may not include any students residing in a residential treatment facility when
13 the education program is operated by the school district;

14 ~~(2D)~~(4) "Limited English proficiency (LEP) adjustment," is calculated by multiplying
15 0.25 times the number of kindergarten through twelfth grade students who, in the
16 prior school year, scored below level four on the state-administered language
17 proficiency assessment as required in the state's consolidated state application
18 pursuant to 20 USC § 6311(b)(7) as of January 1, 2013;

19 ~~(3)~~(5) "Index factor," is the annual percentage change in the consumer price index for
20 urban wage earners and clerical workers as computed by the Bureau of Labor
21 Statistics of the United States Department of Labor for the year before the year
22 immediately preceding the year of adjustment or three percent, whichever is less;

23 ~~(4)~~(6) "Target teacher salary," for the school fiscal year beginning July 1, 2019 is
24 \$50,360.26. Each school fiscal year thereafter, the target teacher salary is the
25 previous fiscal year's target teacher salary increased by the index factor;

26 ~~(4A)~~(7) "Target teacher benefits," is the target teacher salary multiplied by twenty-
27 nine percent;

28 ~~(4B)~~(8) "Target teacher compensation," is the sum of the target teacher salary and
29 the target teacher benefits;

30 ~~(4C)~~(9) "Overhead rate," is thirty-three and six hundredths percent.

31 Beginning in school fiscal year 2018, the overhead rate shall be adjusted to take
32 into account the sum of the amounts that districts exceed the other revenue base
33 amount;

34 ~~(5)~~(10) "Local need," is calculated as follows:

35 (a) Divide the fall enrollment by the target teacher ratio factor;

- 1 (b) If applicable, divide Limited English proficiency (LEP) adjustment pursuant to
 2 subdivision ~~(2D)~~(4) by the target teacher ratio factor;
- 3 (c) Add the results of subsections (a) and (b);
- 4 (d) Multiply the result of subsection (c) by the target teacher compensation;
- 5 (e) Multiply the product of subsection (d) by the overhead rate;
- 6 (f) Add the products of subsections (d) and (e);
- 7 (g) When calculating local need at the statewide level, include the amounts set
 8 aside for costs related to technology in schools and statewide student
 9 assessments; and
- 10 (h) When calculating local need at the statewide level, include the amounts set
 11 aside for sparse school district benefits, calculated pursuant to §§ 13-13-78
 12 and 13-13-79;
- 13 ~~(5A)~~(11) "Alternative per student need," is calculated as follows:
- 14 (a) Add the total need for each school district for school fiscal year 2016,
 15 including the small school adjustment and the limited English proficiency
 16 adjustment, to the lesser of the amount of funds apportioned to each school
 17 district in the year preceding the most recently completed school fiscal year
 18 or school fiscal year 2015 pursuant to §§ 13-13-4, 23A-27-25, 10-33-24, 10-
 19 36-10, 11-7-73, 10-35-21, and 10-43-77;
- 20 (b) Divide the result of (a) by the September 2015 fall enrollment, excluding any
 21 adjustments based on prior year student counts;
- 22 ~~(5B)~~(12) "Alternative local need," is the alternative per student need multiplied by the
 23 fall enrollment, excluding any adjustments based on prior year student counts;
- 24 ~~(6)~~(13) "Local effort," the amount of ad valorem taxes generated in a school fiscal
 25 year by applying the levies established pursuant to § 10-12-42. Beginning on July
 26 1, 2017, local effort will include wind energy tax revenue, as provided in subdivision
 27 (15), and the amount excess of funds, if any, apportioned to each school district in
 28 the year preceding the most recently completed school fiscal year pursuant to
 29 §§ 10-33-24, ~~10-35-21 as provided by subdivision (6B),~~ 10-36-10, 10-43-77, 11-
 30 7-73, 13-13-4, and 23A-27-25 ~~and that exceeds over~~ the other revenue base
 31 amount. ~~For the period July 1, 2016, through December 31, 2016, inclusive, local~~
 32 ~~effort includes the amount of ad valorem taxes generated by applying the levies~~
 33 ~~established pursuant to § 13-10-6 during this period;~~
- 34 ~~(6A)~~(14) "Other revenue base amount," for school districts not utilizing the alternative
 35 local need calculation, is the other revenue base amount of is equal to:

1 ~~(a)~~ The greatest of the amounts of the funds apportioned to each school district
 2 pursuant to §§ 10-33-24, ~~10-35-21~~ as provided by subdivision ~~(6B)~~, 10-
 3 36-10, 10-43-77, 11-7-73, 13-13-4, and 23A-27-25 ~~calculated as follows:~~

4 ~~(a)~~ ~~Beginning on July 1, 2017, equals the greatest of the amounts of the funds~~
 5 ~~apportioned to each school district pursuant to §§ 10-33-24, 10-35-21 as~~
 6 ~~provided by subdivision (6B), 10-36-10, 10-43-77, 11-7-73, 13-13-4, and~~
 7 ~~23A-27-25 for school fiscal years 2013, 2014, and 2015;~~

8 ~~(b)~~ ~~Beginning on July 1, 2018, multiply eighty percent times subsection (a);~~

9 ~~(c)~~ ~~Beginning on July 1, 2019, multiply sixty percent times subsection (a);~~

10 ~~(d)~~ ~~Beginning on July 1, 2020, multiply forty percent times~~ of the subsection
 11 (a) value;

12 ~~(e)(c)~~ ~~Beginning on July 1, 2021, multiply twenty percent times~~ of the subsection
 13 (a) value; and

14 ~~(f)(d)~~ ~~Beginning on July 1, 2022, and each school fiscal year thereafter, is zero.~~

15 For school districts utilizing the alternative local need calculation, the other revenue
 16 base amount is zero until such time the school district chooses to no longer utilize
 17 the alternative local need calculation. At that time, the other revenue base amount
 18 is calculated as defined above.

19 For a school district created or reorganized after July 1, 2016, the other revenue
 20 base amount is the sum of the other revenue base amount for each district before
 21 reorganization, and the new school district may not utilize the alternative local need
 22 calculation.

23 In the case of the dissolution and annexation of a district, the other revenue base
 24 amount of the dissolved school district will be prorated based on the total number
 25 of students in the fall enrollment as defined in subdivision (2A) who attend each
 26 district to which area of the dissolved district were annexed to in the first year of
 27 reorganization. The amount apportioned for each district will be added to the
 28 annexed districts' other revenue base;

29 ~~(6B)(15)~~ "Wind energy tax revenue," any sixty percent of the wind energy tax revenue
 30 apportioned to a school districts district pursuant to § 10-35-21 from a wind farm
 31 producing power for the first time before July 1, 2016, ~~shall be~~ is considered local
 32 effort ~~pursuant to under~~ subdivision ~~(6)(13)~~ ~~and other revenue base amount~~
 33 ~~pursuant to subdivision (6A).~~ However, any In all other cases, the amount of the
 34 wind energy tax revenue apportioned to a school district from a wind farm producing
 35 power for the first time after June 30, 2016 considered local effort is as follows;

- 1 (a) ~~one hundred~~Zero percent shall be retained by the school district to which
 2 the tax revenue is apportioned for the first five years of the wind farm
 3 producing power;⁷
- 4 (b) ~~eighty~~Twenty percent of the wind energy tax revenue apportioned to a
 5 school district pursuant to § 10-35-21 for the sixth year of the wind farm
 6 producing power;⁷
- 7 (c) ~~sixty~~Forty percent ~~for~~ of the wind energy tax revenue apportioned to a
 8 school district pursuant to § 10-35-21 for the seventh year of the wind farm
 9 producing power, forty percent for the eighth year, twenty percent for the
 10 ninth year, and zero percent thereafter; and
- 11 (d) Sixty percent of the wind energy tax revenue apportioned to a school district
 12 pursuant to § 10-35-21 beginning the eighth year of the wind farm
 13 producing power and each year thereafter;
- 14 ~~(7)~~(16) "Per student equivalent," for funding calculations that are determined on a
 15 per student basis, the per student equivalent is calculated as follows:
- 16 (a) Multiply the target teacher compensation times the sum of one plus the
 17 overhead rate;
- 18 (b) Divide subsection (a) by 15;
- 19 ~~(8)~~(17) "Monthly cash balance," the total amount of money for each month in the
 20 school district's general fund, calculated by adding all deposits made during the
 21 month to the beginning cash balance and deducting all disbursements or payments
 22 made during the month;
- 23 ~~(9)~~(18) "General fund base percentage," is determined as follows:
- 24 (a) Forty percent for a school district with a fall enrollment as defined in
 25 subdivision ~~(2A)~~(2) of two hundred or less;
- 26 (b) Thirty percent for a school district with fall enrollment as defined in
 27 subdivision ~~(2A)~~(2) of more than two hundred but less than six hundred; and
- 28 (c) Twenty-five percent for a school district with fall enrollment as defined in
 29 subdivision ~~(2A)~~(2) greater than or equal to six hundred.
- 30 When determining the general fund base percentage, the secretary of the
 31 Department of Education shall use the lesser of the school district's fall enrollment
 32 as defined in subdivision ~~(2A)~~(2) for the current school year or the school district's
 33 fall enrollment from the previous two years;
- 34 ~~(10)~~(19) "Allowable general fund cash balance," the general fund base percentage
 35 multiplied by the district's general fund expenditures in the previous school year.

1 **Section 2.** That § 13-13-71 be AMENDED:

2 **13-13-71. Equalizing increase in local effort with increase in need.**

3 If local effort increases on a statewide aggregate basis by a greater percentage
4 than local need on a statewide aggregate basis from any one year to the next, for the
5 following year each of the levies specified in subdivision 13-13-10.1~~(6)~~(13) shall be
6 reduced proportionally so that the percentage increase in local effort on a statewide
7 aggregate basis equals the percentage increase in need on a statewide aggregate basis.

8 **Section 3.** That § 13-13-73 be AMENDED:

9 **13-13-73. Calculation of state aid for each school district.**

10 No later than July 1, 2016, a school district shall notify the secretary of education
11 in writing as to whether the school district's state aid is to be calculated using the
12 alternative local need calculation. If a school district chooses the alternative local need
13 calculation, the school district shall notify the secretary in writing no later than July first
14 of each subsequent fiscal year as to whether to continue to use the alternative local need
15 calculation for that fiscal year. If a school district chooses not to use the alternative local
16 need calculation, the school district may not use that calculation in any subsequent school
17 year. The secretary of the Department of Education shall compute state aid to education
18 for each school district according to the following calculations:

- 19 (1) For school districts not utilizing the alternative local need calculation, state aid is
20 local need as defined in § 13-13-10.1 minus local effort, or zero if the calculation is
21 a negative number;
- 22 (2) For school districts utilizing the alternative local need calculation, state aid is the
23 alternative local need as defined in subdivision 13-13-10.1~~(5B)~~(12) minus local
24 effort, or zero if the calculation is a negative number;
- 25 (3) If the state aid appropriation for the general support of education is in excess of the
26 entitlement provided for in this section and the entitlement provided for in § 13-13-
27 85, the excess shall be used to fund any shortfall of the appropriation as provided
28 for in § 13-37-36.3. The secretary shall report to the Governor by January seventh
29 of each year, the amount of state aid necessary to fully fund the general aid formula
30 in the current year. If a shortfall in the state aid appropriation for general education
31 exists that cannot be covered by § 13-37-45, the Governor shall inform the
32 Legislature and provide a proposal to eliminate the shortfall.