

# State of South Dakota

## EIGHTY-FOURTH SESSION LEGISLATIVE ASSEMBLY, 2009

677Q0455

### SENATE EDUCATION ENGROSSED NO. **SB 140** - 2/12/2009

Introduced by: Senators Bartling, Brown, Garnos, and Hanson (Gary) and Representatives Frerichs, Fargen, Greenfield, Lucas, Noem, Van Gerpen, and Vanneman

1 FOR AN ACT ENTITLED, An Act to allow school districts to enter into contractual  
2 agreements to provide for the whole-grade sharing of students.

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

4 Section 1. That chapter 13-15 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 Notwithstanding the provisions of § 13-5-1, the school board of any school district may  
7 enter into an agreement or contract with one or more school boards of other school districts to  
8 provide for the whole-grade sharing of students among the participating school districts if:

9 (1) The school district offers an instructional program within the boundaries of the  
10 school district; and

11 (2) The school district meets the minimum fall enrollment requirements pursuant to §  
12 13-6-97.

13 For purposes of this Act, whole-grade sharing is a sharing arrangement for students among  
14 participating school districts that allows the resident students at any one or more grade levels



1 within one school district to attend school in one or more of the other participating school  
2 districts. The whole-grade sharing may be one-way whereby a participating school district sends  
3 all of its students at one or more grade levels to attend school in one or more of the other  
4 participating school districts without receiving any students in return.

5 The whole-grade sharing may also be two-way whereby a school district sends all of its  
6 students at one or more grade levels to attend school in one or more of the other participating  
7 school districts, and in return receives students at one or more grade levels from one or more  
8 of the other participating school districts.

9 Section 2. That chapter 13-15 be amended by adding thereto a NEW SECTION to read as  
10 follows:

11 Any agreement or contract entered into pursuant to section 1 of this Act shall be approved  
12 by the secretary of education and shall remain in effect for a period of at least three years. It  
13 shall provide for the sharing of governance among the participating school districts. The school  
14 board of each participating school district shall adopt the contract or agreement no later than  
15 February first of the school year preceding the school year for which the agreement will take  
16 effect. The contract or agreement may be terminated by any participating school district if that  
17 school district provides written notice to the other participating school districts at least eighteen  
18 months prior to the termination.

19 The contract or agreement shall adhere to the following provisions:

- 20 (1) Students at one grade level within a school district are only eligible to attend school  
21 in another participating school district if all the students at that particular grade level  
22 within the school district are sent to another participating school district. The school  
23 boards of the participating school districts shall determine which students and which  
24 facilities will be shared under the terms of the agreement;

- 1       (2)    The participating school districts may negotiate the rate of tuition that will be charged  
2            for any student sent to attend school in another participating school district. However,  
3            the rate of tuition per year may not be less than the per student allocation as defined  
4            in § 13-13-10.1 for that school fiscal year;
- 5       (3)    The fall enrollment as defined in § 13-13-10.1 for each participating school district  
6            shall include any students that the school district sends to another participating school  
7            district to attend school, and may not include any students that are sent to the school  
8            district to attend school from other participating school districts;
- 9       (4)    For the purposes of determining adequate yearly progress under the state's  
10            accountability system established in § 13-3-62, and calculating the graduation rates,  
11            any student sent to another participating school district to attend school shall be  
12            counted in the receiving school district; and
- 13       (5)    For the purposes of state aid for special education, the school residence of any  
14            student in need of special education or special education and related services who is  
15            sent to a participating school district to attend school remains with the sending school  
16            district. However, both the sending and the receiving school districts shall agree upon  
17            the student's individualized education program.

18       Section 3. That chapter 13-15 be amended by adding thereto a NEW SECTION to read as  
19       follows:

20       The Department of Education shall promulgate rules pursuant to chapter 1-26 to establish  
21       the procedures and timelines for approving the contracts and agreements.