

State of South Dakota

SEVENTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 1997

192A0337

HOUSE EDUCATION COMMITTEE ENGROSSED

NO. **HB1075** - 2/5/97

Introduced by: Representatives Eccarius, Brown (Richard), DeMersseman, Derby, Duniphan, Fitzgerald, Hagg, Konold, Madden, Pederson (Gordon), and Wick and Senators Everist, Ham, Lawler, Olson, Paisley, Shoener, and Whiting

1 FOR AN ACT ENTITLED, An Act to provide for statewide limited open enrollment of students
2 in public school districts in which they do not reside.

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

4 Section 1. That chapter 13-28 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 An enrollment options program is established to enable any South Dakota kindergarten
7 through twelfth grade student to attend a public school in a South Dakota school district in
8 which the student does not reside, subject to the provisions in this Act. Any student who is
9 enrolled, pursuant to this Act, in a district in which the student does not reside is not subject to
10 the tuition requirements of § 13-28-22. For purposes of determining state aid to education as it
11 relates to the provisions of this Act, general enrollment average daily membership as defined in
12 section 10 of this Act is used to determine funding for resident and nonresident students not
13 enrolled in a special education program defined in §§ 13-37-35 to 13-37-48, inclusive; and
14 resident average daily membership as defined in section 12 of this Act is used to determine

1 funding for special education.

2 Section 2. That chapter 13-28 be amended by adding thereto a NEW SECTION to read as
3 follows:

4 A school district is not required to grant a request for a transfer into the district if the transfer
5 would result in an inability to provide a quality educational program based on criteria established
6 by the district pursuant to section 5 of this Act. In determining whether to accept or reject a
7 request for a transfer out of the district that exceeds a two-percent reduction in total enrollment,
8 the district shall rely on criteria established by the district pursuant to section 5 of this Act.
9 However, any such resident district at its discretion may elect to exceed the two percent limit.

10 Section 3. That chapter 13-28 be amended by adding thereto a NEW SECTION to read as
11 follows:

12 The resident district is responsible for the provision of free appropriate public education for
13 a special education student who wishes to transfer to a nonresident district if the nonresident
14 district can provide the necessary facilities and programs for the student. The resident district
15 may contract with the nonresident district for these services.

16 Section 4. That chapter 13-28 be amended by adding thereto a NEW SECTION to read as
17 follows:

18 In order that a student may attend a school or program in a nonresident district pursuant to
19 section 1 of this Act, the student's parent or guardian shall submit an application to the resident
20 and nonresident districts on a form provided by the Department of Education and Cultural
21 Affairs. The application shall include a written statement of the reason for the requested transfer.
22 The application shall be submitted by January fifteenth for initial enrollment beginning the
23 following school year. The resident and nonresident districts shall each notify the parent or
24 guardian in writing by April first of the districts' approval or rejection of the application for
25 transfer and the reasons for any rejection. The same procedures apply to any student who

1 subsequently applies to transfer from one nonresident district to a different nonresident district
2 or to return to the resident district. The parent or guardian of any student who becomes a new
3 resident of a school district after January fifteenth of any school year may submit an application
4 for transfer to a nonresident district within forty-five days after establishing residency, and the
5 districts shall notify the parent or guardian of their decision no sooner than April first after
6 receipt of the application. If accepted, an application to enroll in the nonresident district obligates
7 the student to attend the nonresident district, unless the school boards of the resident and the
8 nonresident districts agree in writing to allow the student to transfer back to the resident district,
9 or the student's parent or guardian changes residence to another district. Once enrolled in a
10 nonresident district, the student may remain enrolled and is not required to resubmit annual
11 applications.

12 Section 5. That chapter 13-28 be amended by adding thereto a NEW SECTION to read as
13 follows:

14 Each school district shall adopt, by resolution, relevant standards for acceptance and
15 rejection of applications for transfer pursuant to this Act. Standards may include the capacity of
16 a program, class size, pupil/teacher ratio, impact on facilities, or other related relevant factors.
17 Discrimination based on race, gender, religious affiliation, or disability is prohibited. The
18 standards shall include an appeal process subject to chapter 1-26.

19 Section 6. That chapter 13-28 be amended by adding thereto a NEW SECTION to read as
20 follows:

21 The parent or guardian of a student who has been accepted for transfer is responsible for
22 transporting the student to school in the receiving district without reimbursement. Either the
23 district of residence or the receiving district may provide transportation to students approved
24 for transfer.

25 Section 7. That chapter 13-28 be amended by adding thereto a NEW SECTION to read as

1 follows:

2 A school district shall accept credits for any course completed in any other accredited school
3 district as the result of a transfer under this Act. The nonresident district shall award a diploma
4 to a nonresident student only if the student satisfactorily meets its graduation requirements.

5 Section 8. That chapter 13-28 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 Each school district shall make relevant information about the district, schools, programs,
8 policies, and procedures available to all interested people.

9 Section 9. That § 13-13-1.4 be amended to read as follows:

10 13-13-1.4. If two or more school districts consolidate, for a period of two years after
11 consolidation, the adjusted average daily membership for the newly formed district shall be based
12 upon the general enrollment average daily membership as defined in § 13-13-10.1 of the school
13 districts as they existed prior to consolidation.

14 Section 10. That § 13-13-10.1 be amended to read as follows:

15 13-13-10.1. Terms used in this chapter mean:

16 (1) "~~Average~~ General enrollment average daily membership," the average number of
17 resident and nonresident kindergarten through twelfth grade pupils enrolled in the
18 school district during the previous regular school year, minus average number of
19 pupils for whom the district receives tuition, except pupils described in subdivision
20 (1A) and plus the average number of pupils for whom the district pays tuition;

21 (1A) Nonresident students who are in the care and custody of the Department of Social
22 Services, the Unified Judicial System, or other state agencies and are attending a
23 public school may be included in the average daily membership of the receiving
24 district when enrolled in the receiving district for more than thirty school days. When
25 counting a student who meets these criteria in its general enrollment average daily

1 membership, the receiving district may begin the enrollment on the first day of
2 attendance. The district of residence prior to the custodial transfer may not include
3 students who meet these criteria in its general enrollment average daily membership
4 after the student ceases to attend school in the resident district for more than thirty
5 school days;

6 (2) "Adjusted average daily membership," calculated as follows:

7 (a) For districts with ~~an~~ a general enrollment average daily membership of two
8 hundred or less, multiply 1.2 times the general enrollment average daily
9 membership;

10 (b) For districts with ~~an~~ a general enrollment average daily membership of less than
11 six hundred, but greater than two hundred, raise the general enrollment average
12 daily membership to the 0.8293 power and multiply the result times 2.98;

13 (c) For districts with ~~an~~ a general enrollment average daily membership of six
14 hundred or more, multiply 1.0 times their general enrollment average daily
15 membership;

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

20 (4) "Per student allocation," for the period January 1, 1997, to June 30, 1997, inclusive,
21 is \$1,675. For school fiscal year 1998, beginning on July 1, 1997, the per student
22 allocation shall be \$3,350 increased by the index factor. Each school fiscal year
23 thereafter, the per student allocation shall be the previous fiscal year's per student
24 allocation increased by the index factor;

25 (5) "Local need," the per student allocation multiplied by the adjusted average daily

1 membership;

2 (6) "Local effort," the amount of ad valorem taxes generated in a school fiscal year by
3 applying the following levies:

4 (a) The levy for school district purposes is sixteen dollars and seventy-five cents
5 per thousand dollars of taxable valuation subject to the limitations on
6 agricultural property as provided in subsection (b) and owner-occupied
7 property as provided in subsection (c);

8 (b) The tax levy on agricultural property for the school district is five dollars and
9 seventy-five cents per thousand dollars of taxable valuation;

10 (c) The tax levy for owner-occupied single-family dwelling for the school district
11 is nine dollars and twenty cents per thousand dollars of taxable valuation.

12 For the period January 1, 1997, to June 30, 1997, inclusive, local effort shall be
13 one-half of the amount of ad valorem taxes generated in calendar year 1997 by
14 applying the following levies:

15 (a) The levy for school district purposes is sixteen dollars and seventy-five cents
16 per thousand dollars of taxable valuation subject to the limitations on
17 agricultural property as provided in subsection (b) and owner-occupied
18 property as provided in subsection (c);

19 (b) The tax levy on agricultural property for the school district is five dollars and
20 seventy-five cents per thousand dollars of taxable valuation;

21 (c) The tax levy for owner-occupied single-family dwelling for the school district
22 is nine dollars and twenty cents per thousand dollars of taxable valuation.

23 All levies shall be based on valuations including valuations pursuant to § 13-13-10.2 and
24 13-13-20.4 such that the median level of assessment represents eighty-five percent of market
25 value as determined by the Department of Revenue. The total amount of taxes that would be

1 generated at the levies pursuant to this section shall be considered local effort.

2 Section 11. That § 13-13-73 be amended to read as follows:

3 13-13-73. The secretary of the Department of Education and Cultural Affairs shall compute
4 state aid to education for each school district under the foundation program according to the
5 following calculations:

- 6 (1) Determine each school district's general enrollment average daily membership;
- 7 (2) Multiply the per student allocation by the adjusted average daily membership to arrive
8 at the local need per district;
- 9 (3) State aid is (a) local need minus local effort, or (b) zero if the calculation in (a) is a
10 negative number;
- 11 (4) If the state aid appropriation for the general support of education is in excess of the
12 entitlement provided for in this section, each eligible district shall receive a pro rata
13 share of such excess based on its adjusted average daily membership.

14 Section 12. That § 13-37-35 be amended to read as follows:

15 13-37-35. Terms used in §§ 13-37-35 to 13-37-48, inclusive, mean:

- 16 (1) "~~Average~~ Resident average daily membership," the average number of resident
17 kindergarten through twelfth grade pupils enrolled in the school district during the
18 previous regular school year ~~minus~~ plus the average number of pupils for whom the
19 district ~~receives~~ pays tuition and plus the average number of ~~pupils for whom the~~
20 ~~district pays tuition~~ resident pupils enrolled in another school district under the
21 provisions of section 1 of this Act;
- 22 (2) "Index factor," is the annual percentage change in the consumer price index for urban
23 wage earners and clerical workers as computed by the Bureau of Labor Statistics of
24 the United States Department of Labor for the year before the year immediately
25 preceding the year of adjustment or three percent, whichever is less;

1 (3) "Local effort," is the amount of taxes payable each year, using the maximum levy for
2 the special education fund of a school district of one dollar and forty cents per
3 thousand dollars of taxable valuation. The levy shall be based on valuations such that
4 the median level of assessment represents 85% of market value as determined by the
5 Department of Revenue. For the period January 1, 1997, through June 30, 1997, local
6 effort shall be one-half of the amount of taxes payable in calendar year 1997, using the
7 maximum levy for the special education fund of a school district of one dollar and
8 forty cents per thousand dollars of taxable valuation. The levy shall be based on
9 valuations such that the median level of assessment represents 85% of market value
10 as determined by the Department of Revenue;

11 (4) "Allocation for a student with a mild disability," for the period January 1, 1997,
12 through June 30, 1997, is \$892. For school fiscal year beginning July 1, 1997, the
13 allocation for a student with a mild disability shall be \$1,785 increased by the lesser
14 of the index factor or three percent. For each school year thereafter, the allocation for
15 a student with a mild disability shall be the previous fiscal year's allocation for such
16 child increased by the lesser of the index factor or three percent;

17 (5) "Allocation for a student with a severe disability," for the period January 1, 1997,
18 through June 30, 1997, is \$10,707. For school fiscal year beginning July 1, 1997, the
19 allocation for a child with a severe disability shall be \$21,415 increased by the lesser
20 of the index factor or three percent. For each school year thereafter, the allocation for
21 a child with a severe disability shall be the previous fiscal year's allocation for such
22 child increased by the lesser of the index factor or three percent;

23 (6) "Local need," an amount to be determined as follows:

24 (i) Multiply the resident average daily membership times 0.1025;

25 (ii) Multiply the result of (i) times the allocation for a student with a mild disability;

- 1 (iii) Multiply the resident average daily membership times 0.015;
- 2 (iv) Multiply the result of (iii) times the allocation for a student with a severe
- 3 disability;
- 4 (v) Add together the result of (ii) and the result of (iv);
- 5 (7) "Student with mild disability," is a student whose performance level is not sufficient
- 6 to demonstrate success in the regular education environment without the provision
- 7 of special education, and who meets eligibility criteria under Part B, IDEA, or both;
- 8 (8) "Student with severe disability," is a student with a low-incidence disability who:
- 9 (a) Meets eligibility criteria under Part B, IDEA; and
- 10 (b) Presents needs which require intervention skills which are substantially
- 11 different from those provided to nondisabled students, in that the skills are
- 12 disability-specific and require special training, equipment, and facilities to
- 13 perform;
- 14 (9) "Effort factor," 1.0 if the school district's special education tax levy in dollars per
- 15 thousand is \$1.40, 0.0 if the school district's special education tax levy in dollars per
- 16 thousand is less than \$1.30.

17 Section 13. That § 13-37-36 be amended to read as follows:

18 13-37-36. The secretary of the department of education and cultural affairs shall compute
19 state aid for special education for each school district according to the following calculations:

- 20 (1) Determine each school district's resident average daily membership;
- 21 (2) Calculate the local need of a school district;
- 22 (3) State aid for special education is:
 - 23 (a) Local need minus local effort, the difference multiplied times the effort factor;
 - 24 or
 - 25 (b) Zero if the calculation in (a) is a negative number.

1 Section 14. The effective date of sections 9 to 13, inclusive, of this Act is July 1, 1999.

1 **BILL HISTORY**

2 January 23 - First read in House and referred to Education. H.J. 93

3 January 28 - Scheduled for hearing.

4 January 30 - Scheduled for hearing.

5 January 31 - Scheduled for hearing.

6 February 4 - Scheduled for hearing.

7 February 4 - Passed.

8 February 4 - Passed as amended, AYES 11, NAYS 1. H.J. 290