

State of South Dakota

SEVENTY-THIRD SESSION LEGISLATIVE ASSEMBLY, 1998

271B0614

SENATE ENGROSSED NO. **SB120** - 2/12/98

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

Introduced by: Senators Everist, Munson (David), and Rounds and Representatives Cutler, Brown (Richard), Eccarius, and Richter

1 FOR AN ACT ENTITLED, An Act to revise the funding of special education.

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

3 Section 1. That subdivision (9) of section 1 of chapter 108 of the 1996 Session Laws be
4 repealed.

5 Section 2. That section 2 of chapter 108 of the 1996 Session Laws be amended to read as
6 follows:

7 ~~This~~ Section 1 of this Act is effective July 1, 1999.

8 Section 3. That section 3 of chapter 108 of the 1996 Session Laws be repealed.

9 Section 4. That section 4 of chapter 108 of the 1996 Session Laws be amended to read as
10 follows:

11 A school district is not eligible for funding from the money set aside in §§ 13-37-38 to 13-37-
12 40, inclusive, ~~if the school district's~~ unless the school district certifies to the secretary of
13 education and cultural affairs that its ending special education fund balance ~~exceeds~~ will not
14 exceed five percent of its special education expenditures for the ~~prior~~ current fiscal year.

15 Section 5. That § 13-37-44 be amended to read as follows:

1 13-37-44. A school district's state aid for special education shall be reduced by the amount
2 which its ending special education fund balance exceeds twenty percent of its special education
3 expenditures for the prior fiscal year or fifty thousand dollars, whichever is greater, if the school
4 district did not receive money set aside in §§ 13-37-38 to 13-37-40, inclusive, during the prior
5 fiscal year; or the amount which its ending special education fund balance exceeds five percent
6 of its special education expenditures for the prior fiscal year if the school district received money
7 set aside in §§ 13-37-38 to 13-37-40, inclusive, during the prior fiscal year.

8 Section 6. Section 5 of this Act is effective July 1, 1999.

9 Section 7. That § 13-37-43 be amended to read as follows:

10 13-37-43. For the transition period from January 1, 1997, through school fiscal year 1999,
11 state aid to special education shall be determined according to the following calculations:

12 (1) For the period January 1, 1997, through June 30, 1997, state aid for special education
13 is the greater of (a) state aid for special education as calculated in § 13-37-36, or (b)
14 actual school special education expenditures for fiscal year 1994 less federal revenues
15 for special education less local effort, the result which is multiplied times 0.59;

16 (2) For school fiscal year 1998, state aid for special education is the greater of (a) state
17 aid for special education as calculated in § 13-37-36, or (b) actual school special
18 education expenditures for fiscal year 1994 less federal revenues for special education
19 less local effort, the result which is multiplied times 0.95;

20 (3) For school fiscal year 1999, state aid for special education is the greater of (a) state
21 aid for special education as calculated in § 13-37-36, or (b) actual school special
22 education expenditures for fiscal year 1994 less federal revenues for special education
23 less local effort, the result which is multiplied times ~~0.48~~ 0.95.

24 Section 8. That § 13-37-35 be amended to read as follows:

25 13-37-35. Terms used in §§ 13-37-35 to 13-37-47, inclusive, mean:

- 1 (1) "Average daily membership," the average number of kindergarten through twelfth
2 grade pupils enrolled in all schools operated by the school district during the previous
3 regular school year minus the average number of pupils for whom the district receives
4 tuition and plus the average number of pupils for whom the district pays tuition;
- 5 (2) "Index factor," is the annual percentage change in the consumer price index for urban
6 wage earners and clerical workers as computed by the Bureau of Labor Statistics of
7 the United States Department of Labor for the year before the year immediately
8 preceding the year of adjustment or three percent, whichever is less;
- 9 (3) "Local effort," is the amount of taxes payable each year, using the maximum levy for
10 the special education fund of a school district of one dollar and forty cents per
11 thousand dollars of taxable valuation. The levy shall be based on valuations including
12 valuations pursuant to §§ 13-13-10.2 and 13-13-20.4 such that the median level of
13 assessment represents 85% of market value as determined by the Department of
14 Revenue. For the period January 1, 1997, through June 30, 1997, local effort shall be
15 one-half of the amount of taxes payable in calendar year 1997, using the maximum
16 levy for the special education fund of a school district of one dollar and forty cents per
17 thousand dollars of taxable valuation. The levy shall be based on valuations such that
18 the median level of assessment represents 85% of market value as determined by the
19 Department of Revenue;
- 20 (4) "Allocation for a student with a mild disability," for the period January 1, 1997,
21 through June 30, 1997, is \$807. For school fiscal year beginning July 1, 1997, the
22 allocation for a student with a mild disability shall be \$1,614 increased by the lesser
23 of the index factor or three percent. For each school year thereafter, the allocation for
24 a student with a mild disability shall be the previous fiscal year's allocation for such
25 child increased by the lesser of the index factor or three percent;

(5) "Allocation for a student with a severe disability," for the period January 1, 1997, through June 30, 1997, is \$9,682. For school fiscal year beginning July 1, 1997, the allocation for a child with a severe disability shall be \$19,364 increased by the lesser of the index factor or three percent. For each school year thereafter, the allocation for a child with a severe disability shall be the previous fiscal year's allocation for such child increased by the lesser of the index factor or three percent;

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

(a) For a school district with an average daily membership of less than 13,000:

(i) Multiply the average daily membership times 0.1025;

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

(iii) Multiply the average daily membership times 0.015;

(iv) Multiply the result of (iii) times the allocation for a student with a severe disability;

(v) Add together the result of (ii) and the result of (iv);

(b) For a school district with an average daily membership greater than 13,000:

(i) Multiply the average daily membership times 0.1025;

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

(iii) Subtract 13,000 from the average daily membership, the difference of which is multiplied times 0.0000034, the result of which is added to 0.015;

(iv) Multiply the average daily membership times the lesser of the result of (iii) or ~~0.03~~ 0.027;

(v) Multiply the result of (iv) times the allocation for a student with a severe

1 disability;

2 (vi) Add together the result of (ii) and the result of (v);

3 (7) "Student with mild disability," is a student whose performance level is not sufficient
4 to demonstrate success in the regular education environment without the provision
5 of special education, who meets eligibility criteria under Part B, IDEA, and who has
6 been identified as a student in need of special education or special education and
7 related services according to criteria set forth in rules promulgated pursuant to
8 § 13-37-46;

9 (8) "Student with severe disability," is a student with a low-incidence disability who:

10 (a) Meets eligibility criteria under Part B, IDEA;

11 (b) Has been identified as a student in need of special education or special
12 education and related services according to criteria set forth in rules
13 promulgated pursuant to § 13-37-46; and

14 (c) Presents needs which require intervention skills which are substantially
15 different from those provided to nondisabled students, in that the skills are
16 disability-specific and require special training, equipment, and facilities to
17 perform;

18 (9) "Effort factor," the school district's special education tax levy in dollars per thousand
19 divided by \$1.40.

20 Section 9. That section 12 of chapter 34 of the 1997 Session Laws be amended to read as
21 follows:

22 State Aid for Special Education

23	Personal Services	\$0		\$0	\$0	\$0	
24	Operating Expenses	\$37,875,924	<u>\$37,038,226</u>	\$0	\$0	\$37,875,924	<u>\$37,038,226</u>
25	Total	\$37,875,924	<u>\$37,038,226</u>	\$0	\$0	\$37,875,924	<u>\$37,038,226</u> 0.0

1 Section 10. That § 13-37-39 be amended to read as follows:

2 13-37-39. Subject to the limitation in § 13-37-42, the secretary of the Department of
3 Education and Cultural Affairs shall, for school fiscal year 1998, set aside four percent (4%) of
4 the state special education appropriation for extraordinary expenses incurred in providing special
5 education programs or services to one or more children with disabilities, with expenditures to
6 be made as recommended by an oversight board and approved by the secretary of the
7 Department of Education and Cultural Affairs. Any funds not expended or obligated pursuant
8 to this section shall not be subject to reversion pursuant to § 4-8-19. The maximum amount not
9 subject to reversion is equal to 5.75% of the state special education appropriation.

10 Section 11. Sections 9 and 10 of this Act are effective June 15, 1998.

11 Section 12. That § 13-37-40 be amended to read as follows:

12 13-37-40. Subject to the limitation in § 13-37-42, the secretary of the Department of
13 Education and Cultural Affairs shall, for school fiscal year 1999 and each year thereafter, set
14 aside 5.75% of the state special education appropriation for extraordinary expenses incurred in
15 providing special education programs or services to one or more children with disabilities, with
16 expenditures to be made as recommended by an oversight board and approved by the secretary
17 of the Department of Education and Cultural Affairs. Any funds not expended or obligated
18 pursuant to this section shall not be subject to reversion pursuant to § 4-8-19. The maximum
19 amount not subject to reversion is equal to 5.75% of the state special education appropriation.

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

22 The South Dakota Board of Education may promulgate rules pursuant to chapter 1-26 to
23 identify allowable expenditures from the special education fund.

24 Section 14. That chapter 13-16 be amended by adding thereto a NEW SECTION to read as
25 follows:

1 Each school district shall file the annual financial report pursuant to § 13-8-47 using the
2 uniform accounting system as defined in the accounting manual developed pursuant to § 4-11-6.
3 Reports not filed prior to August fifteenth are considered past due and are subject to the past-
4 due provisions of § 13-13-38.

5 Section 15. The Department of Education and Cultural Affairs shall collect from all public
6 school districts and educational cooperatives detailed financial reports containing special
7 education expenditures for the school years ending in 1997 and 1998 on forms prescribed by the
8 secretary of education and cultural affairs. The reports shall state special education expenditures
9 by disability category as defined in ARSD 24:05:24:01, which was in effect on July 1, 1997,
10 including staffing levels, specific contracted services, transportation costs, indirect costs, and any
11 other data deemed pertinent by the secretary of education and cultural affairs.

12 Each school district shall file the report containing special education expenditures for the
13 school year ending in June 1997 by July 10, 1998, or sixty days after the Department of
14 Education and Cultural Affairs makes the forms available to the school district, whichever is
15 later. If complete and accurate reports are not filed by this date and an extension has not been
16 granted by the secretary of education and cultural affairs, the school district shall forfeit from its
17 foundation aid entitlement one hundred dollars for each day that the data is past due for seven
18 days and two hundred dollars for each day past due thereafter starting with the eighth day.

19 Each school district shall file the report containing special education expenditures for the
20 school year ending in June 1998 by October 16, 1998, or sixty days after the Department of
21 Education and cultural Affairs makes the forms available to the school district, whichever is later.
22 If complete and accurate reports are not filed by this date and an extension has not been granted
23 by the secretary of education and cultural affairs, the school district shall forfeit from its
24 foundation aid entitlement one hundred dollars for each day that the data is past due for seven
25 days and two hundred dollars for each day past due thereafter starting with the eighth day.

- 1 The secretary of education and cultural affairs shall report the findings of both reports to the
- 2 Governor and the Legislature by January 15, 1999.

1 **BILL HISTORY**

2 1/21/98 First read in Senate and referred to Education. S.J. 136

3 2/4/98 Scheduled for Committee hearing on this date.

4 2/4/98 Education Deferred to another day.

5 2/9/98 Education Hog Housed.

6 2/9/98 Scheduled for Committee hearing on this date.

7 2/9/98 Education Do Pass Amended, Passed, AYES 7, NAYS 0. S.J. 380

8 2/11/98 Motion to Amend, Passed. S.J. 454

9 2/11/98 Senate Passed. S.J. 455

10 2/11/98 Senate Do Pass Amended, Passed, AYES 34, NAYS 0. S.J. 455