

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

644E0640

CONFERENCE COMMITTEE ENGROSSED NO.

SB 245 - 03/04/2001

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

Introduced by: Senators Brown (Arnold), Brosz, Daugaard, Drake, Ham, Hutmacher, McCracken, Olson (Ed), and Sutton (Dan) and Representatives Heineman, Pitts, and Smidt

1 FOR AN ACT ENTITLED, An Act to implement certain amendments to Article XII of the
2 Constitution of the State of South Dakota regarding trust funds.

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

4 Section 1. That § 28-6-31 be amended to read as follows:

5 28-6-31. Each publicly owned and operated nursing facility participating under the provisions
6 of §§ 28-6-28 to 28-6-36, inclusive, immediately upon receiving a payment under § 28-6-30,
7 shall remit the amount of that payment, less a transaction fee, to the department for credit to:

8 (1) The ~~intergovernmental transfer~~ health care trust fund as provided in S.D. Const., Art.
9 XII, § 5 in an amount equal to the applicable federal medical assistance percentage
10 times the total remittance to the department, less the transaction fee; and

11 (2) The department's other funds for all remaining amounts.

12 Section 2. That § 28-6-28 be amended to read as follows:

13 28-6-28. Terms used in §§ 28-6-28 to 28-6-36, inclusive, mean:

- 1 (1) "Department," the Department of Social Services;
- 2 (2) "Fiscal period," up to a twelve-month period determined by the department;
- 3 (3) "Funding pool," pool of funds established in accordance with § 28-6-29;
- 4 (4) "~~Intergovernmental transfer~~ Health care trust fund," the fund established as provided
5 in S.D. Const., Art. XII, § 5 to hold the federal portion of the monetary difference
6 between the medicaid payment and the medicare upper limits maximum allowable
7 reimbursement, less transaction fees paid to publicly owned and operated nursing
8 facilities;
- 9 (5) "Medical assistance," the medicaid program authorized by Title XIX of the Social
10 Security Act, 42 U.S.C.1396d, as amended through January 1, 2000, which provides
11 medical assistance to eligible individuals and is operated under § 28-6-1;
- 12 (6) "Medicare," the Health Insurance for the Aged Act, Title XVIII of the Social Security
13 Amendments of 1965 and as amended through January 1, 2000;
- 14 (7) "Nursing facility," any facility participating in medicaid that is licensed, maintained,
15 and operated for the express or implied purpose of providing care to one or more
16 persons, whether for consideration or not, who are not acutely ill but require nursing
17 care and related medical services of such complexity as to require professional nursing
18 care under the direction of a physician twenty-four hours a day;
- 19 (8) "Political subdivision," any municipality or county;
- 20 (9) "Publicly owned and operated nursing facility," a nursing facility that is owned and
21 operated by a political subdivision of the state and is participating in medicaid.

22 Section 3. That § 28-6-35 be amended to read as follows:

23 28-6-35. The department may promulgate rules pursuant to chapter 1-26 for the
24 administration of §§ 28-6-28 to 28-6-36, inclusive. The rules may include criteria for

1 establishing, funding, and administering the pool, criteria for participation in the
2 intergovernmental transfer, penalties for failing to immediately remit the funds to the department,
3 criteria for the transfer of funds, the establishment of transaction fees, and other policies to
4 facilitate the administration of the ~~intergovernmental transfer~~ health care trust fund or the funding
5 pool.

6 Section 4. That § 28-6-33 be amended to read as follows:

7 ~~28-6-33. There is hereby established in the state treasury a fund known as the~~
8 ~~intergovernmental transfer fund. The fund shall include revenue received from publicly owned~~
9 ~~and operated nursing facilities for remittance to the fund under § 28-6-31. The department shall~~
10 ~~administer the fund and shall adopt procedures for participation by publicly owned and operated~~
11 ~~nursing facilities. All moneys designated for the fund from whatever source derived shall be~~
12 ~~deposited with the state treasurer in the intergovernmental transfer fund. The amounts in the~~
13 ~~intergovernmental transfer fund shall be invested pursuant to §§ 4-5-23 and 4-5-26 and the~~
14 ~~earnings shall be deposited in the intergovernmental transfer fund. The investment of moneys in~~
15 ~~the health care trust fund as provided in S.D. Const. Art., XII, § 5 is not restricted by the~~
16 ~~provisions of § 4-5-26, but is governed by the provisions of § 4-5-27.~~

17 Section 5. That § 10-50B-11 be amended to read as follows:

18 ~~10-50B-11. The people's trust fund is established in the state treasury. Any money received~~
19 ~~from the Master Settlement Agreement signed on November 23, 1998, by attorneys general from~~
20 ~~several states and various tobacco companies shall be deposited in the people's trust fund. The~~
21 ~~principal in the trust fund may not be expended. The fund shall be invested according to~~
22 ~~§§ 4-5-23 and 4-5-26. Interest earned on money in the fund shall be deposited in the people's~~
23 ~~interest fund created in § 10-50B-12 education enhancement trust fund as provided in S.D.~~
24 ~~Const., Art. XII, § 6.~~

1 Section 6. That chapter 10-50B be amended by adding thereto a NEW SECTION to read
2 as follows:

3 The investment of moneys in the education enhancement trust fund as provided in S.D.
4 Const. Art., XII, § 6 is not restricted by the provisions of § 4-5-26, but is governed by the
5 provisions of § 4-5-27.

6 Section 7. That § 10-50B-12 be repealed.

7 ~~10-50B-12. The people's interest fund is established in the state treasury. Interest earned on~~
8 ~~money in the fund shall be credited to the people's interest fund. The money in the people's~~
9 ~~interest fund shall remain in the fund until appropriated by the Legislature. The fund shall be~~
10 ~~invested according to §§ 4-5-23 and 4-5-26.~~

11 Section 8. That § 13-14-6 be repealed.

12 ~~13-14-6. There is established within the state treasury the youth-at-risk education trust fund.~~
13 ~~The fund shall be declared a participating fund and it shall be credited for all interest earned on~~
14 ~~the fund. Expenditures from the fund shall be limited to the interest earned on the fund.~~
15 ~~Expenditures from such fund shall be made only upon approval of the Legislature.~~

16 Section 9. That § 13-14-8 be repealed.

17 ~~13-14-8. Expenditures from the youth-at-risk education trust fund shall only be made from~~
18 ~~the interest earned on the principal held in the trust fund. Allocations from the youth-at-risk~~
19 ~~education trust fund shall be available as grants for local projects benefitting at-risk youth~~
20 ~~including early identification, early childhood projects, parental involvement projects, prevention~~
21 ~~awareness initiatives, substance abuse prevention, dropout prevention programs, career~~
22 ~~exploration and vocational education projects, the centennial school improvement program,~~
23 ~~alternative high school programs, school-to-work transition projects, health and medical services~~
24 ~~programs, mental health services, family-based services, institutional care, and juvenile aftercare.~~

1 ~~The department of education and cultural affairs may promulgate rules pursuant to chapter 1-26~~
2 ~~to establish application procedures, guidelines for eligibility, timelines, guidelines for program~~
3 ~~content and structure, evaluation methods, award procedures, and grant procedures.~~

4 Section 10. This Act is effective only if the proposed amendment to the Constitution
5 contained in Senate Joint Resolution 4 as previously adopted by the Seventy-sixth Legislature
6 is approved by the voters on April 10, 2001. If this Act becomes effective, sections 7 and 8 of
7 this Act are effective on July 1, 2002.