

## 2021 South Dakota Legislature

**House Bill 1255****AMENDMENT 1255B FOR THE INTRODUCED BILL**

1 **An Act to create the South Dakota forever trust fund, to provide for the transfer of**  
2 **certain unobligated cash balances, to transfer moneys thereto, and to declare**  
3 **an emergency.**

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

5 **Section 1.** That a NEW SECTION be added:

6 **4-5-61. Trust fund for South Dakota established.**

7 There is hereby established within the state treasury a trust fund named the South  
8 Dakota forever trust fund. The principal of the trust fund may not be invaded, unless  
9 approved by a three-fourths vote of all the members-elect of each house of the  
10 Legislature.

11 Beginning in fiscal year 2024, and each fiscal year thereafter, the market value  
12 shall be determined by adding the market value of the trust fund at the end of the sixteen  
13 most recent calendar quarters as of December thirty-first, and dividing the sum by sixteen.  
14 The state investment officer shall calculate an amount equal to four percent of the market  
15 value, without invading principal, as eligible for distribution. For the purpose of this  
16 section, the term, principal, means the sum of all contributions to the fund. Upon notice  
17 of ~~that the distribution~~ amount by the state investment officer, the state treasurer shall  
18 transfer the amount from the South Dakota forever trust fund to the state general fund  
19 as soon as practicable after July first of the next fiscal year. The distribution shall be  
20 appropriated for the improvement of South Dakota.

21 **Section 2.** The state treasurer shall transfer the sum of \$200,000,000 from the general fund  
22 to the South Dakota forever trust fund, created in section 1 of this Act.

23 **Section 3.** That § 4-7-31 be AMENDED.

1           **4-7-31. Budget reserve fund established--Legislative action required for**  
2 **reserve fund expenditures.**

3           There is hereby established within the state treasury the budget reserve fund.  
4           Expenditures out of the budget reserve fund shall only be by special appropriation of the  
5           Legislature and shall only redress such unforeseen expenditure obligations or such  
6           unforeseen revenue shortfalls as may constitute an emergency pursuant to S.D. Const.,  
7           Art. III, § 1.

8 **Section 4.** That § 4-7-32 be AMENDED.

9           **4-7-32. Transfer of fiscal year unobligated cash.**

10           The transfer of all prior year unobligated cash shall take place in accordance with  
11 this section as follows:

12           (1)    On July first of each fiscal year or at such time ~~that~~ as the prior fiscal year general  
13           fund ~~ending~~ unobligated cash balance is determined, the commissioner of the  
14           Bureau of Finance and Management shall transfer all prior year unobligated cash  
15           up to an amount ~~equal to~~ equaling ten percent of the general fund appropriations  
16           from the general appropriation act for the prior fiscal year into the budget reserve  
17           fund. ~~In no event shall the~~ The cash balance in the budget reserve fund ~~be greater~~  
18           ~~than may not exceed~~ ten percent of the general fund appropriations from the  
19           general appropriation act for the prior fiscal year.

20           (2)    If any unobligated cash balance remains after the requirements of subdivision (1)  
21           are met, the commissioner of the Bureau of Finance and Management shall transfer  
22           half the remaining balance to the South Dakota forever trust fund under § 4-5-61.

23           (3)    If any unobligated cash balance remains after the requirements of subdivision (2)  
24           are met, the commissioner of the Bureau of Finance and Management shall transfer  
25           the remaining amount into the general revenue replacement fund

26           ~~Expenditures out of the budget reserve fund shall only be by special appropriation of~~  
27           ~~the Legislature and shall only redress such unforeseen expenditure obligations or such~~  
28           ~~unforeseen revenue shortfalls as may constitute an emergency pursuant to S.D. Const.,~~  
29           ~~Art. III, § 1.~~

30 **Section 5.** That § 4-7-39 be REPEALED.

1           **4-7-39. Transfer of unobligated cash to general revenue replacement fund.**

2           **Section 6.** Whereas, this Act is necessary for the support of the state government and its  
3 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in  
4 full force and effect from and after its passage and approval.

