

2021 South Dakota Legislature

Senate Bill 177**AMENDMENT 177G FOR THE SENATE BILL**

1 **An Act to revise the provisions of parental choice regarding compulsory school**
2 **attendance and matters ancillary thereto.**

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

4 **Section 1.** That § 13-13-10.1 be AMENDED.

5 **13-13-10.1. Definitions.**

6 The education funding terms and procedures referenced in this chapter are defined
7 as follows:

8 (1) Repealed by SL 2016, ch 83, § 4;

9 (1A) Nonresident students who are in the care and custody of the Department of Social
10 Services, the Unified Judicial System, the Department of Corrections, or other state
11 agencies and are attending a public school may be included in the fall enrollment of
12 the receiving district when enrolled in the receiving district;

13 (2) Repealed by SL 2016, ch 83, § 4;

14 (2A) "Fall enrollment," is calculated as follows:

15 (a) (i) Determine the number of kindergarten through twelfth grade students
16 enrolled in all schools operated by the school district on the last Friday of
17 September of the current school year; and

18 (ii) Add to the number determined under paragraph (i) of this subsection
19 the product of 0.10 multiplied by the number of children who are
20 participating in interscholastic activities, as permitted by § 13-36-7,
21 while receiving alternative instruction pursuant to § 13-27-3;

22 (b) Subtract the number of students for whom the district receives tuition except
23 for:

24 (i) Nonresident students who are in the care and custody of a state agency
25 and are attending a public school district; and

- 1 (ii) Students who are being provided an education pursuant to § 13-28-
2 11;
- 3 (c) Add the number of students for whom the district pays tuition.
4 When computing state aid to education for a school district pursuant to § 13-13-
5 73, the secretary of the Department of Education shall use the school district's fall
6 enrollment;
- 7 (2B) Repealed by SL 2010, ch 84, § 1;
- 8 (2C) "Target teacher ratio factor," is:
- 9 (a) For school districts with a fall enrollment of two hundred or less, the target
10 teacher ratio factor is 12;
- 11 (b) For districts with a fall enrollment of greater than two hundred, but less than
12 six hundred, the target teacher ratio factor is calculated as follows:
- 13 (1) Multiplying the fall enrollment by .00750;
- 14 (2) Adding 10.50 to the product of subsection (b)(1);
- 15 (c) For districts with a fall enrollment of six hundred or greater, the target teacher
16 ratio factor is 15.
- 17 The fall enrollment used for the determination of the target teacher ratio for a school
18 district may not include any students residing in a residential treatment facility
19 when the education program is operated by the school district;
- 20 (2D) "Limited English proficiency (LEP) adjustment," is calculated by multiplying 0.25
21 times the number of kindergarten through twelfth grade students who, in the prior
22 school year, scored below level four on the state-administered language proficiency
23 assessment as required in the state's consolidated state application pursuant to 20
24 USC § 6311(b)(7) as of January 1, 2013;
- 25 (3) "Index factor," is the annual percentage change in the consumer price index for
26 urban wage earners and clerical workers as computed by the Bureau of Labor
27 Statistics of the United States Department of Labor for the year before the year
28 immediately preceding the year of adjustment or three percent, whichever is less;
- 29 (4) "Target teacher salary," for the school fiscal year beginning July 1, 2020 is
30 \$51,367.47. Each school fiscal year thereafter, the target teacher salary is the
31 previous fiscal year's target teacher salary increased by the index factor;
- 32 (4A) "Target teacher benefits," is the target teacher salary multiplied by twenty-nine
33 percent;
- 34 (4B) "Target teacher compensation," is the sum of the target teacher salary and the
35 target teacher benefits;

- 1 (4C) "Overhead rate," is thirty-four and ninety-three hundredths percent.
2 Beginning in school fiscal year 2018, the overhead rate shall be adjusted to take
3 into account the sum of the amounts that districts exceed the other revenue base
4 amount;
- 5 (5) "Local need," is calculated as follows:
6 (a) Divide the fall enrollment by the target teacher ratio factor;
7 (b) If applicable, divide Limited English proficiency (LEP) adjustment pursuant to
8 subdivision (2D) by the target teacher ratio factor;
9 (c) Add the results of subsections (a) and (b);
10 (d) Multiply the result of subsection (c) by the target teacher compensation;
11 (e) Multiply the product of subsection (d) by the overhead rate;
12 (f) Add the products of subsections (d) and (e);
13 (g) When calculating local need at the statewide level, include the amounts set
14 aside for costs related to technology in schools and statewide student
15 assessments; and
16 (h) When calculating local need at the statewide level, include the amounts set
17 aside for sparse school district benefits, calculated pursuant to §§ 13-13-78
18 and 13-13-79;
- 19 (5A) "Alternative per student need," is calculated as follows:
20 (a) Add the total need for each school district for school fiscal year 2016,
21 including the small school adjustment and the limited English proficiency
22 adjustment, to the lesser of the amount of funds apportioned to each school
23 district in the year preceding the most recently completed school fiscal year
24 or school fiscal year 2015 pursuant to §§ 13-13-4, 23A-27-25, 10-33-24, 10-
25 36-10, 11-7-73, 10-35-21, and 10-43-77;
26 (b) Divide the result of (a) by the September 2015 fall enrollment, excluding any
27 adjustments based on prior year student counts;
- 28 (5B) "Alternative local need," is the alternative per student need multiplied by the fall
29 enrollment, excluding any adjustments based on prior year student counts;
- 30 (6) "Local effort," the amount of ad valorem taxes generated in a school fiscal year by
31 applying the levies established pursuant to § 10-12-42. Beginning on July 1, 2017,
32 local effort will include the amount of funds apportioned to each school district in
33 the year preceding the most recently completed school fiscal year pursuant to
34 §§ 10-33-24, 10-35-21 as provided by subdivision (6B), 10-36-10, 10-43-77, 11-
35 7-73, 13-13-4, and 23A-27-25 and that exceeds the other revenue base amount.

1 For the period July 1, 2016, through December 31, 2016, inclusive, local effort
2 includes the amount of ad valorem taxes generated by applying the levies
3 established pursuant to § 13-10-6 during this period;

4 (6A) "Other revenue base amount," for school districts not utilizing the alternative local
5 need calculation is the amount of funds apportioned to each school district pursuant
6 to §§ 10-33-24, 10-35-21 as provided by subdivision (6B), 10-36-10, 10-43-77,
7 11-7-73, 13-13-4, and 23A-27-25 calculated as follows:

8 (a) Beginning on July 1, 2017, equals the greatest of the amounts of the funds
9 apportioned to each school district pursuant to §§ 10-33-24, 10-35-21 as
10 provided by subdivision (6B), 10-36-10, 10-43-77, 11-7-73, 13-13-4, and
11 23A-27-25 for school fiscal years 2013, 2014, and 2015;

12 (b) Beginning on July 1, 2018, multiply eighty percent times subsection (a);

13 (c) Beginning on July 1, 2019, multiply sixty percent times subsection (a);

14 (d) Beginning on July 1, 2020, multiply forty percent times subsection (a);

15 (e) Beginning on July 1, 2021, multiply twenty percent times subsection (a);

16 (f) Beginning on July 1, 2022, is zero.

17 For school districts utilizing the alternative local need calculation, the other revenue
18 base amount is zero until such time the school district chooses to no longer utilize
19 the alternative local need calculation. At that time, the other revenue base amount
20 is calculated as defined above.

21 For a school district created or reorganized after July 1, 2016, the other revenue
22 base amount is the sum of the other revenue base amount for each district before
23 reorganization, and the new school district may not utilize the alternative local
24 need calculation.

25 In the case of the dissolution and annexation of a district, the other revenue base
26 amount of the dissolved school district will be prorated based on the total number
27 of students in the fall enrollment as defined in subdivision (2A) who attend each
28 district to which area of the dissolved district were annexed to in the first year of
29 reorganization. The amount apportioned for each district will be added to the
30 annexed districts' other revenue base;

31 (6B) "Wind energy tax revenue," any wind energy tax revenue apportioned to school
32 districts pursuant to § 10-35-21 from a wind farm producing power for the first time
33 before July 1, 2016, shall be considered local effort pursuant to subdivision (6) and
34 other revenue base amount pursuant to subdivision (6A). However, any wind
35 energy tax revenue apportioned to a school district from a wind farm producing

1 power for the first time after June 30, 2016, one hundred percent shall be retained
2 by the school district to which the tax revenue is apportioned for the first five years
3 of producing power, eighty percent for the sixth year, sixty percent for the seventh
4 year, forty percent for the eighth year, twenty percent for the ninth year, and zero
5 percent thereafter;

6 (7) "Per student equivalent," for funding calculations that are determined on a per
7 student basis, the per student equivalent is calculated as follows:

8 (a) Multiply the target teacher compensation times the sum of one plus the
9 overhead rate;

10 (b) Divide subsection (a) by 15;

11 (8) "Monthly cash balance," the total amount of money for each month in the school
12 district's general fund, calculated by adding all deposits made during the month to
13 the beginning cash balance and deducting all disbursements or payments made
14 during the month;

15 (9) "General fund base percentage," is determined as follows:

16 (a) Forty percent for a school district with a fall enrollment as defined in
17 subdivision (2A) of two hundred or less;

18 (b) Thirty percent for a school district with fall enrollment as defined in
19 subdivision (2A) of more than two hundred but less than six hundred; and

20 (c) Twenty-five percent for a school district with fall enrollment as defined in
21 subdivision (2A) greater than or equal to six hundred.

22 When determining the general fund base percentage, the secretary of the
23 Department of Education shall use the lesser of the school district's fall enrollment
24 as defined in subdivision (2A) for the current school year or the school district's fall
25 enrollment from the previous two years;

26 (10) "Allowable general fund cash balance," the general fund base percentage multiplied
27 by the district's general fund expenditures in the previous school year.

28 **Section 2.** That § 13-27-1 be AMENDED.

29 **13-27-1. Responsibility of person controlling child--High school equivalency**
30 **test preparation program--Kindergarten--Transfer from another state.**

31 Any person having control of a child, who is not younger than five or older than six
32 years old by the first day of September, or any child who, by the first day of September,
33 is at least six years old, but who has not exceeded the age of eighteen, shall cause the
34 child to regularly attend ~~some public or nonpublic school for the entire term during which~~

1 ~~the public school in the district in which the person resides, or the school to which the~~
2 ~~child is assigned to attend, is in session school, either public, nonpublic, or alternative~~
3 ~~instruction as set forth in § 13-27-3, until the child reaches the age of eighteen years,~~
4 unless the child has graduated or is excused as provided in this chapter. However, the
5 requirements of this section are met if a child who is at least sixteen years of age enrolls
6 in a high school equivalency test preparation program ~~that is school-based or for which a~~
7 ~~school contracts~~ and the child successfully completes the test or reaches the age of
8 eighteen years.

9 A child is eligible to enroll in a school-based or school-contracted high school
10 equivalency test preparation program or take the high school equivalency test if the child
11 is sixteen or seventeen years of age, and the child presents written permission from the
12 child's parent or guardian and one of the following:

- 13 (1) Verification from a school administrator that the child will not graduate with the
14 child's cohort class because of credit deficiency;
- 15 (2) Authorization from a court services officer;
- 16 (3) A court order requiring the child to enter the program;
- 17 (4) Verification that the child is under the direction of the Department of Corrections;
18 or
- 19 (5) Verification that the child is enrolled in Job Corps as authorized by Title I-C of the
20 Workforce Investment Act of 1998, as amended to January 1, 2009.

21 Any child who is sixteen or seventeen years of age and who completes the high school
22 equivalency test preparation program may take a high school equivalency test
23 immediately following release from the school program or when ordered to take the test
24 by a court. Any such child who fails to successfully complete the test shall re-enroll in the
25 school district and may continue the high school equivalency preparation program or other
26 suitable program as determined by the school district.

27 All children shall attend kindergarten prior to age seven. Any child who transfers from
28 another state may proceed in a continuous educational program without interruption if the
29 child has not previously attended kindergarten.

30 **Section 3.** That § 13-27-2 be AMENDED.

31 **13-27-2. Child excused from school.**

32 ~~Upon filing of a notification with a school official from the parent or guardian of the~~
33 ~~child for the reasons set forth in § 13-27-3, the child shall be excused, without the~~
34 ~~necessity of school board action, subject to revocation thereafter as provided in this~~

1 ~~chapter.~~—A school board of any school district may excuse a child from public school
2 attendance for the reasons set forth in §§ 13-27-6 and 13-27-6.1.

3 **Section 4.** That § 13-27-3 be AMENDED.

4 **13-27-3. Child excused if provided alternative instruction--Notification--**
5 **Investigation--Revocation--Restrictions--Testing.**

6 ~~A child shall be excused from school attendance, pursuant to § 13-27-2, because~~
7 ~~Upon a filing of a notification with either the Department of Education or the local district~~
8 ~~from the parent, or guardian, or other person having control of a child, the Department of~~
9 ~~Education or the local district has been notified that the child is otherwise being provided~~
10 ~~with alternative instruction for an equivalent period of time, as in the public schools, in~~
11 ~~the basic skills of language arts and mathematics. The parent or guardian of the child shall~~
12 ~~identify in the notification the place where the child will be instructed and any person who~~
13 ~~will instruct the child. The person providing instruction is not required to be certified. The~~
14 ~~secretary of the Department of Education may investigate and determine whether the~~
15 ~~instruction is being provided. Failure to provide instruction is grounds for the school board,~~
16 ~~upon thirty days' notice, to revoke the excuse from school attendance. The secretary of~~
17 ~~the Department of Education may inspect the records of an alternative education program~~
18 ~~with fourteen days' written notice if the secretary has probable cause to believe the~~
19 ~~program is not in compliance with this section. The records to be inspected are limited to~~
20 ~~attendance and evidence showing academic progress.~~

21 ~~No person may instruct more than twenty-two children. All instructions shall be given~~
22 ~~so as to lead to a mastery of the English language. Each child receiving alternative~~
23 ~~instruction who is in grades four, eight, or eleven shall take a nationally standardized~~
24 ~~achievement test of the basic skills. The test may be the test provided by the state and~~
25 ~~used in the public school district where the child is instructed or another nationally~~
26 ~~standardized achievement test chosen by and provided at the expense of the child's~~
27 ~~parent, guardian, or school giving alternative instruction. The test may be monitored by~~
28 ~~the local school district where the child is instructed.~~

29 **Section 5.** That § 13-27-3.1 be AMENDED.

30 **13-27-3.1. Birth certificate or affidavit to be submitted--Violation as**
31 **misdemeanor.**

32 Any person who is required pursuant to § 13-27-1 to cause any child to attend any
33 public or nonpublic school ~~or alternative instruction program pursuant to § 13-27-3~~ in this

1 state shall, either at the time of enrollment in any school in this state ~~or upon being~~
2 ~~excused from school attendance pursuant to § 13-27-3~~ or within thirty days of initial
3 enrollment ~~or excuse~~, provide the public or nonpublic school ~~or the alternative instruction~~
4 ~~program~~ with a certified copy of the child's birth certificate or affidavit in lieu of birth
5 certificate as issued by the Department of Health in such cases where the original birth
6 certificate is deemed unattainable. ~~Any parent or guardian who requests an excuse for his~~
7 ~~or her child pursuant to § 13-27-3, shall with the initial request for excuse, provide a~~
8 ~~certified copy of the child's birth certificate or an affidavit notarized or witnessed by two~~
9 ~~or more witnesses, swearing or affirming that the child identified on the request for excuse~~
10 ~~is the same person appearing on the child's certified birth certificate. A violation of this~~
11 section is a Class 2 misdemeanor.

12 **Section 6.** That § 13-27-3.2 be AMENDED.

13 **13-27-3.2. Maintenance of birth certificate by school as permanent record.**

14 Any copy of any certified birth certificate provided pursuant to § 13-27-3.1 shall
15 be maintained by the public or nonpublic school ~~or alternative instruction program~~ and
16 shall be a part of the child's permanent cumulative school record.

17 **Section 7.** That § 13-27-7 be AMENDED.

18 **13-27-7. Notification of alternative instruction.**

19 Each notification ~~for excuse from school attendance for the reasons provided in of~~
20 alternative instruction pursuant to § 13-27-3 shall be on a standard form—acknowledged
21 before a notary or two witnesses that declares that the child will be provided with
22 alternative instruction per § 13-27-3. The completed form must contain the child's name,
23 birthdate, resident district, and open enrolled district if applicable, signature of the parent,
24 guardian, or other person having control of the child and information for the return of the
25 form. The Department of Education or the local district shall provide the parent, guardian,
26 or other person having control of the child with a signed or stamped copy of the notification
27 as proof of notification. The notification shall be kept confidential. The form shall be
28 provided by the secretary of the Department of Education but may not require more details
29 than set forth by this section. ~~A certificate of excuse shall be included as part of the~~
30 ~~notification and is effective upon the filing of the notification with a school official, without~~
31 ~~the necessity of school board action, subject to revocation thereafter as provided in this~~
32 ~~chapter. The certificate of excuse shall be for a period not to exceed one year and shall~~
33 ~~state the reason for the excuse is that the child will receive alternative instruction. Upon~~

1 ~~a showing by the secretary of the Department of Education that a child excused from~~
2 ~~school attendance pursuant to § 13-27-3 is not being instructed in compliance with § 13-~~
3 ~~27-3, the school board may immediately revoke the child's certificate of excuse.~~

4 ~~Any test score required by § 13-27-3 shall be kept on file in the public school of~~
5 ~~the district where the child has school residence as defined in § 13-28-9. If subsequent~~
6 ~~achievement test results reveal less than satisfactory academic progress in the child's~~
7 ~~level of achievement, the school board may refuse to renew the child's certificate of~~
8 ~~excuse.~~

9 The notification shall be filed within thirty days from the first time the child begins
10 an alternative instruction program while the child is of school age as defined in § 13-27-1
11 and is not required thereafter unless one or more of the following transitions occur:

- 12 (1) A child enrolls in a public or nonpublic school; or
13 (2) A child moves to a different school district.

14 The parent, guardian, or other person having control of the child shall provide
15 notification of any transitions by submitting the standard notification form to the
16 Department of Education or the local district within thirty days of the transition.

17 **Section 8.** That § 13-27-8 be AMENDED.

18 **13-27-8. Appeal on attendance matters to state board--Burden of proof--**
19 **Finality of decision.**

20 Any parent or guardian of a student denied a certificate pursuant to §§ 13-27-6
21 and 13-27-6.1 ~~or who has had a certificate revoked pursuant to § 13-27-7~~ who is
22 dissatisfied with the decision of the school board may appeal the matter to the South
23 Dakota Board of Education Standards who shall conduct a hearing pursuant to chapter 1-
24 26. ~~In the hearing the burden of proving noncompliance with § 13-27-3 shall be upon the~~
25 ~~secretary of the Department of Education.~~ The state board's decision shall be final as to
26 the secretary's right of appeal.

27 **Section 9.** That § 13-27-9 be AMENDED.

28 **13-27-9. Record of certificates of excuse--Copies to secretary and place of**
29 **instruction.**

30 A permanent record of all certificates of excuse, pursuant to §§ 13-27-6 and 13-
31 27-6.1, shall be kept in some safe place as determined by the school board. ~~Any certificate~~
32 ~~of excuse of a pupil receiving alternative instruction pursuant to § 13-27-3 is confidential.~~

1 Copies of any certificate of excuse shall be forwarded to the secretary of the
2 Department of Education. Copies of any certificates of excuse shall also be forwarded to
3 the place where the child is instructed. The copies shall be forwarded within thirty days of
4 issuance.

5 **Section 10.** That § 13-27-11 be AMENDED.

6 **13-27-11. Failure to send child to school as misdemeanor.**

7 Any person having control of a child of compulsory school age who fails to have
8 the child attend school, as required by the provisions of this title, or provide alternative
9 instruction pursuant to § 13-27-3, is guilty of a Class 2 misdemeanor for the first offense.
10 For each subsequent offense, a violator of this section is guilty of a Class 1 misdemeanor.

11 **Section 11.** That § 13-27-15 be AMENDED.

12 **13-27-15. Attendance records maintained by superintendent or president of**
13 **board--Reports required.**

14 Each superintendent, or the president of the school board in districts without a
15 superintendent, is responsible for maintaining an accurate record of the attendance of all
16 persons of compulsory school age who are enrolled in an accredited school under his or
17 her supervision. ~~He~~ The superintendent or president shall, at regular intervals, report the
18 names of all enrolled persons who are of compulsory school age ~~persons,~~ not excused
19 from school, who do not or who irregularly attend an accredited school to the truancy
20 officer ~~on blanks provided for that purpose.~~ ~~He~~ The superintendent or president shall
21 include reasons for the absences in the report.

22 **Section 12.** That § 13-27-16 be AMENDED.

23 **13-27-16. Warnings by school boards to send children to school--Report to**
24 **truancy officer.**

25 Each school board shall warn noncompliant parents or persons in control of children
26 of compulsory school age that the children must enter school and attend regularly, or
27 enroll in a high school equivalency test preparation program in accordance with § 13-27-
28 1, or comply with § 13-27-3, and shall report the parents or persons in control of the
29 children to the truancy officer for the district if the warning is not heeded. All school board
30 members, superintendents, and teachers shall cooperate in the enforcement of the school
31 attendance laws.

1 **Section 13.** That § 13-27-18 be AMENDED.

2 **13-27-18. Neglect of duty by superintendent, president of board, school**
3 **board, or truancy officer--Harboring or employment of truant child--Hindering**
4 **attendance by child--Misdemeanor.**

5 Any superintendent or school board president who fails to make prompt reports on
6 attendance as required by law; any person who harbors or employs a child of compulsory
7 school age who is not legally excused during the school term or being provided alternative
8 instruction pursuant to § 13-27-3; the members of any school board who neglect or refuse
9 to provide school facilities for children-~~of~~ enrolled in their school district for at least nine
10 months during the school year, or neglect to perform any other duties enumerated under
11 the compulsory school attendance laws of this state; any truancy officer who neglects to
12 perform the duties of his or her office; or any person who hampers or hinders a child of
13 compulsory school age from attending a school-~~which~~ in which the child is enrolled that
14 meets all legal requirements, or who interferes or attempts to interfere with the child's
15 attendance at the school in which the child is enrolled is guilty of a Class 2 misdemeanor.

16 **Section 14.** That § 13-27-19 be AMENDED.

17 **13-27-19. Truancy officers--Power--Authority to apprehend--Supervisory**
18 **control by secretary.**

19 Each truancy officer has the powers of a deputy sheriff in the exercise of-~~his~~ the
20 officer's duties, and shall apprehend without warrant children of compulsory school age
21 who absent themselves from the place where the children are enrolled and required to
22 attend without an excuse, and place the children in the custody of the person having
23 charge of the place where the children are enrolled and by law required to attend. In the
24 administration of-~~his~~ the officer's duties, each truancy officer is subject to the general
25 supervisory control of the secretary of the Department of Education.

26 **Section 15.** That § 13-27-20 be AMENDED.

27 **13-27-20. Complaints against persons responsible for truancy--Contents of**
28 **complaint--Verification.**

29 Each truancy officer shall make and file truancy complaints, and any teacher,
30 school officer, or any citizen may make and file a truancy complaint, before a circuit court
31 judge, against any person having control of a child of compulsory school age who is not
32 being provided with alternative instruction or attending school or whose attendance at

1 school is irregular. The complaint shall state the name of the parent, guardian, or person
2 responsible for the control of the child. The complaint shall be verified by oath upon belief
3 of the complainant. A truancy complaint that, together with any accompanying affidavit,
4 does not establish probable cause shall be dismissed upon motion of the defendant to the
5 circuit court judge.

6 **Section 16.** That § 13-27-29 be AMENDED.

7 **13-27-29. Placement of child who has attended unaccredited school or**
8 **alternative program--Appeal.**

9 If a child of compulsory school age has been attending an unaccredited school in
10 another state or country or has been receiving alternative instruction pursuant to § 13-
11 27-3 enrolls in a public school in this state, the child shall be placed at the child's
12 demonstrated level of proficiency as established by one or more standardized tests.
13 However, a child's placement may ~~not~~ be in a one grade level higher than warranted by
14 the child's chronological age assuming entry into the first grade at age six and annual
15 grade advancement thereafter. After initial placement, the child may be advanced
16 according to ~~his~~ the child's demonstrated performance. If a child of secondary school age
17 has been attending an unaccredited school in another state or country or has been
18 receiving alternative instruction pursuant to § 13-27-3 enrolls in a public school in this
19 state, the child shall be placed in English and math at the level of achievement
20 demonstrated by one or two standardized tests, and in all other subjects on a review of
21 transcripts according to the policy formally adopted by the school board. The child's
22 placement may ~~not~~ be in a one grade level higher than warranted by the child's
23 chronological age assuming entry into the first grade at age six and annual grade
24 advancement thereafter. After initial placement the child may be advanced according to
25 his demonstrated performance.

26 Any parent or guardian who is dissatisfied with the ~~secondary~~ placement of his
27 child may appeal it to the secretary of the Department of Education.

28 **Section 17.** That § 13-28-41 be AMENDED.

29 **13-28-41. Request for transfer--Nonresident child excused from attending**
30 **in another district--Nonresident child provided with alternative instruction.**

31 A school district shall grant a request for a transfer into the district or within the
32 district unless the transfer would result in an inability to provide a quality educational
33 program based on criteria established by the district pursuant to § 13-28-44.

1 In addition, a school district shall grant a request to admit into the district a child who
 2 is a resident of another school district and who is excused from attending school in the
 3 resident district pursuant to § 13-27-2, or is a child provided with alternative instruction
 4 pursuant to § 13-27-3, unless admitting the nonresident child would result in an inability
 5 to provide a quality educational program based on criteria established by the district
 6 pursuant to § 13-28-44.

7 **Section 18.** That § 13-28-51 be AMENDED.

8 **13-28-51. Enrollment of child on partial basis upon request of parent or**
 9 **guardian--Alternative instruction.**

10 The resident school district of a child ~~excused from school attendance being~~
 11 provided alternative instruction pursuant to § 13-27-2 § 13-27-3 shall admit that child to
 12 a public school in the district upon request from the child's parent or legal guardian. A
 13 child enrolled in a school district pursuant to this section may be enrolled in a school of
 14 the school district on only a partial basis and shall continue to also ~~receive~~ be provided
 15 with alternative instruction pursuant to § 13-27-3.

16 **Section 19.** That § 13-36-7 be AMENDED.

17 **13-36-7. Participation in interscholastic activities--Accreditation--Eligibility.**

18 Any student enrolling in a South Dakota district pursuant to § 13-15-21 is eligible
 19 to participate in any interscholastic activity sponsored by the South Dakota High School
 20 Activities Association. ~~If the school board or governing body of an accredited school~~
 21 ~~approves, a student receiving alternative instruction pursuant to § 13-27-3 is eligible to~~
 22 ~~participate in any interscholastic activity sponsored by the South Dakota High School~~
 23 ~~Activities Association.~~

24 Each public school district shall allow participation in athletics, fine arts, or activities
 25 for a child being provided alternative instruction pursuant to § 13-27-3 within the district
 26 in which the child resides. The parent, guardian, or other person in control of a child being
 27 provided alternative instruction shall submit proof of age when participating in athletics,
 28 fine arts, or activities. Any child being provided with alternative instruction and
 29 participating in South Dakota High School Activities Association activities shall be held to
 30 the same local training rules and South Dakota High School Activities Association transfer
 31 and non-academic eligibility rules as enrolled students.

32 Pursuant to § 13-27-3 and before the current season of the sport or activity the
 33 alternative instruction child is participating in, the parent, guardian, or other person in

1 control of a child being provided alternative instruction shall provide the appropriate school
 2 official with a copy of a transcript of the previous semester's completed coursework that
 3 is issued by the parent, guardian, or other person in control of the child. The parent,
 4 guardian, or other person in control of a child being provided alternative instruction shall
 5 notify the appropriate school official if the child becomes ineligible under South Dakota
 6 High School Activities Association or local school rules in so far as those standards apply
 7 to § 13-27-3.

8 Nothing in this section confers any vested right in any student wishing to participate
 9 in any interscholastic activity to be selected for competition in such activity. However, any
 10 ~~accredited school~~ enrolled student who leaves an accredited program during the course of
 11 the school year ~~for any reason and enters an alternative instruction program~~ who will be
 12 provided alternative instruction is ineligible for participation in interscholastic activities for
 13 ~~one year beginning on the date in which the student enters the alternative program~~ the
 14 balance of the current season of the sport or activity the student is participating in at the
 15 time of notification of alternative instruction.

16 **Section 20.** That § 13-55-31.3 be AMENDED.

17 **13-55-31.3. Opportunity scholarship eligibility requirements for students**
 18 **who received alternative instruction.**

19 In order to be eligible for a South Dakota opportunity scholarship pursuant to this
 20 section, a student who received alternative instruction pursuant to ~~§§ 13-27-2-§§ 13-27-~~
 21 3 to 13-27-9, inclusive, shall:

- 22 (1) Be a resident of this state;
 23 (2) Obtain a composite score or superscore of at least twenty-four on the ACT or a
 24 comparable score on the SAT as determined by the Board of Regents;
 25 (3) Provide a transcript of completed coursework that is issued by the parent or
 26 guardian listed on the ~~certificate of excuse~~ notification and which includes:
 27 (a) Four or more units of language arts, including:
 28 (i) One and one-half units of writing;
 29 (ii) One and one-half units of literature, one-half unit of which must be
 30 American literature;
 31 (iii) One-half unit of speech or debate; and
 32 (iv) One-half unit of a language arts elective;
 33 (b) Three or more units of social studies, including:
 34 (i) One unit of U.S. history;

- 1 (ii) One-half unit of U.S. government;
 2 (iii) One-half unit of geography;
 3 (iv) One-half unit of world history; and
 4 (v) One-half unit of a social studies elective;
 5 (c) Four units of mathematics, including:
 6 (i) One unit of algebra I;
 7 (ii) One unit of geometry;
 8 (iii) One unit of algebra II; and
 9 (iv) One unit of advanced math;
 10 (d) Four units of science, at least three of which must be laboratory science,
 11 including:
 12 (i) One unit of biology;
 13 (ii) One unit of any physical science;
 14 (iii) One unit of chemistry or physics; and
 15 (iv) One unit of science electives;
 16 (e) Two units of either of the following or a combination of the two:
 17 (i) Career and technical education; and
 18 (ii) World languages;
 19 (f) One-half unit of personal finance or economics;
 20 (g) One unit of fine arts;
 21 (h) One-half unit of physical education; and
 22 (i) One-half unit of health or health integration;
 23 (4) Attend a university, college, or technical school that is accredited by the Higher
 24 Learning Commission and provides instruction from a campus located in this state;
 25 and
 26 (5) Enter into the program:
 27 (a) Within five years after the conclusion of the school year in which the student
 28 graduated, while being ~~excused from school attendance~~ provided alternative
 29 instruction in accordance with ~~§§ 13-27-2-§§ 13-27-3~~ to 13-27-9, inclusive;
 30 or
 31 (b) Within one year after the conclusion of the school year in which the student
 32 was discharged from active duty with the armed forces, provided the
 33 discharge occurred within five years after the conclusion of the school year in
 34 which the student graduated, while being ~~excused from school attendance~~

1 provided alternative instruction in accordance with ~~§§ 13-27-2~~ §§ 13-27-3 to
2 13-27-9, inclusive.

3 If a student attends full-time a regionally accredited university, college, or technical
4 school, located outside this state, and within two years from the end of the school year in
5 which the student graduated, while being ~~excused from school attendance~~ provided with
6 alternative instruction in accordance with ~~§§ 13-27-2~~ §§ 13-27-3 to 13-27-9, inclusive, or
7 within two years after the conclusion of the school year in which the student was
8 discharged from active duty with the armed forces, as set forth in subsection (b) of
9 subdivision (5), returns to the state to attend full-time a regionally accredited university,
10 college, or technical school, the student is eligible to receive a partial award.

11 A student is eligible to participate in the South Dakota opportunity scholarship program
12 for the equivalent of eight consecutive fall and spring semesters or until the attainment of
13 a baccalaureate degree, whichever comes first. The Board of Regents may grant
14 exceptions to the continuous enrollment requirement upon a showing of good cause.