

2021 South Dakota Legislature

House Bill 1255**AMENDMENT 1255E FOR THE HOUSE APPROPRIATIONS
BILL**

1 **An Act to create the South Dakota forever trust fund, and to provide for the transfer**
2 **of certain unobligated cash balances, ~~to transfer moneys thereto, and to~~**
3 **~~declare 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 the distribution amount by the state investment officer, the state treasurer shall transfer
18 the amount from the South Dakota forever trust fund to the state general fund as soon
19 as practicable after July first of the next fiscal year. ~~The distribution shall be appropriated~~
20 ~~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 2.** 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 3.** 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.~~

