

State of South Dakota

EIGHTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2010

400R0380

SENATE ENGROSSED NO. **HB 1051** - 3/2/2010

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

Introduced by: The Committee on Appropriations at the request of the Bureau of Finance and Management

1 FOR AN ACT ENTITLED, An Act to equate, within certain limits, the annual percentage
2 increase in per student funding for general education and for special education to the
3 projected change in state general fund revenue, and to require the Legislature to estimate
4 general fund revenues for the current fiscal year and the next fiscal year.

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

6 Section 1. That § 13-13-10.1 be amended to read as follows:

7 13-13-10.1. Terms used in this chapter mean:

8 (1) "Average daily membership," the average number of resident and nonresident
9 kindergarten through twelfth grade pupils enrolled in all schools operated by the
10 school district during the previous regular school year, minus average number of
11 pupils for whom the district receives tuition, except pupils described in subdivision
12 (1A) and pupils for whom tuition is being paid pursuant to § 13-28-42.1 and plus the
13 average number of pupils for whom the district pays tuition;

14 (1A) Nonresident students who are in the care and custody of the Department of Social



1 Services, the Unified Judicial System, the Department of Corrections, or other state
2 agencies and are attending a public school may be included in the average daily
3 membership of the receiving district when enrolled in the receiving district. When
4 counting a student who meets these criteria in its general enrollment average daily
5 membership, the receiving district may begin the enrollment on the first day of
6 attendance. The district of residence prior to the custodial transfer may not include
7 students who meet these criteria in its general enrollment average daily membership
8 after the student ceases to attend school in the resident district;

9 (2) "Adjusted average daily membership," calculated as follows:

10 (a) For districts with an average daily membership of two hundred or less,
11 multiply 1.2 times the average daily membership;

12 (b) For districts with an average daily membership of less than six hundred, but
13 greater than two hundred, raise the average daily membership to the 0.8293
14 power and multiply the result times 2.98;

15 (c) For districts with an average daily membership of six hundred or more,
16 multiply 1.0 times their average daily membership;

17 (2A) "Fall enrollment," the number of kindergarten through twelfth grade students enrolled
18 in all schools operated by the school district on the last Friday of September of the
19 previous school year minus the number of students for whom the district receives
20 tuition, except nonresident students who are in the care and custody of a state agency
21 and are attending a public school and students for whom tuition is being paid
22 pursuant to § 13-28-42.1, plus the number of students for whom the district pays
23 tuition. When computing state aid to education for a school district under the
24 foundation program pursuant to § 13-13-73, the secretary of the Department of

1 Education shall use either the school district's fall enrollment or the average of the
2 school district's fall enrollment and the school district's fall enrollment from the prior
3 year, whichever is higher. However, if a school district qualifies to benefit from both
4 the averaging permitted in this subdivision and the one-time payment provided in
5 § 13-13-80 in the same fiscal year, the school district may not benefit from both, but
6 only from the one that provides the most additional funding to the district;

7 (2B) "Current fall enrollment," the number of kindergarten through twelfth grade students
8 enrolled in all schools operated by the school district on the last Friday of September
9 of the current school year minus the number of students for whom the district
10 receives tuition except nonresident students who are in the care and custody of a state
11 agency and are attending a public school and students for whom tuition is being paid
12 pursuant to § 13-28-42.1, plus the number of students for whom the district pays
13 tuition;

14 (2C) "Small school adjustment," calculated as follows:

15 (a) For districts with a fall enrollment of two hundred or less, multiply 0.2 times
16 \$4,237.72;

17 (b) For districts with a fall enrollment of greater than two hundred, but less than
18 six hundred, multiply the fall enrollment times negative 0.0005; add 0.3 to that
19 result; and multiply the sum obtained times \$4,237.72;

20 (2D) "State general fund revenue," all continuing receipts deposited into the state's general
21 fund;

22 (2E) "Projected state general fund increase," the estimated percentage change in state
23 general fund revenue, as adopted by the standing committees on appropriations
24 pursuant to section 2 of this Act, for the year of adjustment;

1 (2F) "Adjusted state general fund increase," equals the projected state general fund
2 increase for school fiscal years 2012 and 2013. Beginning with school fiscal year
3 2014, it equals the difference between the calculation in (a) and the calculation in (b)
4 as follows:

5 (a) Calculate the percentage change in the projected state general fund revenue for
6 the year of adjustment compared to the actual state general fund revenue for
7 the fiscal year five years prior to the year of adjustment. However, if the year
8 of adjustment is school fiscal year 2014 or 2015, the percentage change
9 comparison is between the year of adjustment and school fiscal year 2011;

10 (b) Calculate the percentage change in the per student allocation for the fiscal year
11 prior to the year of adjustment compared to the per student allocation for the
12 fiscal year five years prior to the year of adjustment. However, if the year of
13 adjustment is school fiscal year 2014 or 2015, the percentage change
14 comparison is between the year prior to the year of adjustment and school
15 fiscal year 2011;

16 (3) "Index factor," is equal to the adjusted state general fund increase subject to the
17 following limitations:

18 (a) It cannot be greater than seven percent or less than zero percent; and

19 (b) It cannot exceed the annual percentage change in the consumer price index for
20 urban wage earners and clerical workers as computed by the Bureau of Labor
21 Statistics of the United States Department of Labor for the year before the year
22 immediately preceding the year of adjustment or ~~three percent, whichever is~~
23 less four percent, whichever is greater;

24 (3A) "General fund adjustment," beginning with school fiscal year 2014, the difference

1 (b) The maximum allowable percentage for that particular fiscal year as stated in
2 this subsection.

3 For fiscal year 2008, the maximum allowable percentage is one hundred percent; for
4 fiscal year 2009, eighty percent; for fiscal year 2010, sixty percent; for fiscal year
5 2011, forty percent; for fiscal year 2012 and subsequent fiscal years, twenty-five
6 percent. However, the general fund base percentage can never be less than twenty-
7 five percent;

8 (10) "Allowable general fund balance," the general fund base percentage multiplied by the
9 district's general fund expenditures in the previous school fiscal year;

10 (11) "General fund exclusions," revenue a school district has received from the imposition
11 of the excess tax levy pursuant to § 10-12-43; revenue a school district has received
12 from gifts, contributions, grants, or donations; revenue a school district has received
13 under the provisions of §§ 13-6-92 to 13-6-96, inclusive; revenue a school district
14 has received as compensation for being a sparse school district under the terms of
15 §§ 13-13-78 and 13-13-79; any revenue a school district has received under the
16 provisions of the American Recovery and Reinvestment Act of 2009 (P.L. 111-5);
17 and any revenue in the general fund set aside for a noninsurable judgment.

18 Section 2. That chapter 4-7 be amended by adding thereto a NEW SECTION to read as
19 follows:

20 The Senate and House of Representatives standing committees on appropriations shall
21 jointly adopt a statement of estimated revenue for the current fiscal year and for the next fiscal
22 year. The statement of estimated revenue shall be classified by individual revenue source.
23 General fund revenue shall be further classified as either continuing receipts or one-time
24 receipts.

1 Section 3. That § 13-37-35.1 be amended to read as follows:

2 13-37-35.1. Terms used in chapter 13-37 mean:

3 (1) "Level one disability," a mild disability;

4 (2) "Level two disability," cognitive disability or emotional disorder;

5 (3) "Level three disability," hearing impairment, deafness, visual impairment, deaf-
6 blindness, orthopedic impairment, or traumatic brain injury;

7 (4) "Level four disability," autism;

8 (5) "Level five disability," multiple disabilities;

9 (5A) "Level six disability," prolonged assistance;

10 (6) "Index factor," is ~~the annual percentage change in the consumer price index for urban~~
11 ~~wage earners and clerical workers as computed by the Bureau of Labor Statistics of~~
12 ~~the United States Department of Labor for the year before the year immediately~~
13 ~~preceding the year of adjustment or three percent, whichever is less~~ equal to the index
14 factor calculated pursuant to section 1 of this Act;

15 (6A) "General fund adjustment," is equal to the general fund adjustment calculated
16 pursuant to section 1 of this Act;

17 (7) "Local effort," shall be calculated for taxes payable in 2011 and shall be the amount
18 of revenue that could have been generated for the taxes payable in 2010 using a
19 special education levy of one dollar and twenty cents per one thousand dollars of
20 valuation increased by the lesser of three percent or the index factor, as defined in
21 § 10-13-38, plus a percentage increase of value resulting from any improvements or
22 change in use of real property, annexation, minor boundary changes, and any
23 adjustments in taxation of real property separately classified and subject to statutory
24 adjustments and reductions under chapters 10-4, 10-6, 10-6A, and 10-6B, except

1 § 10-6-31.4, only if assessed the same as property of equal value.

2 For taxes payable in 2012, 2013, 2014, and 2015, the total amount of local effort
3 shall be increased by the lesser of three percent or the index factor, established
4 pursuant to § 10-13-38 plus a percentage increase of value resulting from any
5 improvements or change in use of real property, annexation, minor boundary
6 changes, and any adjustments in taxation of real property separately classified and
7 subject to statutory adjustments and reductions under chapters 10-4, 10-6, 10-6A, and
8 10-6B, except § 10-6-31.4, only if assessed the same as property of equal value;

9 (8) "Allocation for a student with a level one disability," for the school fiscal year
10 beginning July 1, ~~2009~~ 2010, is \$4,057. For each school year thereafter, the allocation
11 for a student with a level one disability shall be the previous fiscal year's allocation
12 for such child increased by ~~the lesser of the index factor or three percent~~;

13 (9) "Allocation for a student with a level two disability," for the school fiscal year
14 beginning July 1, ~~2009~~ 2010, is \$9,471. For each school year thereafter, the allocation
15 for a student with a level two disability shall be the previous fiscal year's allocation
16 for such child increased by ~~the lesser of the index factor or three percent~~;

17 (10) "Allocation for a student with a level three disability," for the school fiscal year
18 beginning July 1, ~~2009~~ 2010, is \$15,220. For each school year thereafter, the
19 allocation for a student with a level three disability shall be the previous fiscal year's
20 allocation for such child increased by ~~the lesser of the index factor or three percent~~;

21 (11) "Allocation for a student with a level four disability," for the school fiscal year
22 beginning July 1, ~~2009~~ 2010, is \$13,164. For each school year thereafter, the
23 allocation for a student with a level four disability shall be the previous fiscal year's
24 allocation for such child increased by ~~the lesser of the index factor or three percent~~;

- 1 (12) "Allocation for a student with a level five disability," for the school fiscal year
2 beginning July 1, ~~2009~~ 2010, is \$16,539. For each school year thereafter, the
3 allocation for a student with a level five disability shall be the previous fiscal year's
4 allocation for such child increased by ~~the lesser of the index factor or three percent~~;
- 5 (12A) "Allocation for a student with a level six disability," for the school fiscal year
6 beginning July 1, ~~2009~~ 2010, is \$8,438. For each school year thereafter, the allocation
7 for a student with a level six disability shall be the previous fiscal year's allocation
8 for such child increased by ~~the lesser of the index factor or three percent~~;
- 9 (13) "Child count," is the number of students in need of special education or special
10 education and related services according to criteria set forth in rules promulgated
11 pursuant to §§ 13-37-1.1 and 13-37-46 submitted to the Department of Education in
12 accordance with rules promulgated pursuant to § 13-37-1.1;
- 13 (14) "Fall enrollment," the number of kindergarten through twelfth grade pupils enrolled
14 in all schools operated by the school district on the last Friday of September of the
15 previous school year minus the number of students for whom the district receives
16 tuition, except any nonresident student who is in the care and custody of a state
17 agency and is attending a public school and any student for whom tuition is being
18 paid pursuant to § 13-28-42.1, plus the number of students for whom the district pays
19 tuition;
- 20 (15) "Nonpublic school," a sectarian organization or entity which is accredited by the
21 secretary of education for the purpose of instructing children of compulsory school
22 age. This definition excludes any school that receives a majority of its revenues from
23 public funds;
- 24 (16) "Nonpublic fall enrollment," until June 30, 2008, the number of children under age

1 sixteen, and beginning July 1, 2009, the number of children under age eighteen, who
2 are approved for alternative instruction pursuant to § 13-27-2 on the last Friday of
3 September of the previous school year plus:

4 (a) For nonpublic schools located within the boundaries of a public school district
5 with a fall enrollment of six hundred or more on the last Friday of September
6 of the previous school year, the number of kindergarten through twelfth grade
7 pupils enrolled on the last Friday of September of the previous regular school
8 year in all nonpublic schools located within the boundaries of the public
9 school district;

10 (b) For nonpublic schools located within the boundaries of a public school district
11 with a fall enrollment of less than six hundred on the last Friday of September
12 of the previous school year, the number of resident kindergarten through
13 twelfth grade pupils enrolled on the last Friday of September of the previous
14 school year in all nonpublic schools located within the State of South Dakota;

15 (17) "Special education fall enrollment," fall enrollment plus nonpublic fall enrollment;

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

17 (a) Multiply the special education fall enrollment by 0.1062 and multiply the
18 result by the allocation for a student with a level one disability;

19 (b) Multiply the number of students having a level two disability as reported on
20 the child count for the previous school fiscal year by the allocation for a
21 student with a level two disability;

22 (c) Multiply the number of students having a level three disability as reported on
23 the child count for the previous school fiscal year by the allocation for a
24 student with a level three disability;

1 (d) Multiply the number of students having a level four disability as reported on
2 the child count for the previous school fiscal year by the allocation for a
3 student with a level four disability;

4 (e) Multiply the number of students having a level five disability as reported on
5 the child count for the previous school fiscal year by the allocation for a
6 student with a level five disability;

7 (f) Multiply the number of students having a level six disability as reported on the
8 child count for the previous school fiscal year by the allocation for a student
9 with a level six disability;

10 (g) Sum the results of (a) through (f);

11 (19) "Effort factor," for taxes payable in 2011, 2012, 2013, 2014, and 2015, the effort
12 factor is the amount of taxes payable for the year divided by the amount of local
13 effort as calculated in subdivision (7). The maximum effort factor is 1.0.

14 Section 4. That § 13-37-35.2 be amended to read as follows:

15 13-37-35.2. In fiscal year 2004 and every three years thereafter, the Department of Education
16 shall recalculate the amounts of the allocations for the disability levels defined in § 13-37-35.1.
17 The recalculation shall be based on statewide average expenditures as reported to the
18 Department of Education in school district annual reports by disability for the previous three
19 school fiscal years. The recalculated allocations for the disability levels shall be prorated so that
20 the new statewide local need equals the statewide local need that would have resulted if the
21 disability levels had not been recalculated.