

AN ACT

ENTITLED, An Act to revise the per student allocation in the state aid to general education formula, and to revise certain allocations for disabilities in the state aid to special education formula.

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

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

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

- (1) "Average daily membership," the average number of resident and nonresident kindergarten through twelfth grade pupils enrolled in all schools operated by the school district during the previous regular school year, minus average number of pupils for whom the district receives tuition, except pupils described in subdivision (1A) and pupils for whom tuition is being paid pursuant to § 13-28-42.1 and plus the average number of pupils for whom the district pays tuition;
- (1A) Nonresident students who are in the care and custody of the Department of Social Services, the Unified Judicial System, the Department of Corrections, or other state agencies and are attending a public school may be included in the average daily membership of the receiving district when enrolled in the receiving district. When counting a student who meets these criteria in its general enrollment average daily membership, the receiving district may begin the enrollment on the first day of attendance. The district of residence prior to the custodial transfer may not include students who meet these criteria in its general enrollment average daily membership after the student ceases to attend school in the resident district;
- (2) "Adjusted average daily membership," calculated as follows:
 - (a) For districts with an average daily membership of two hundred or less, multiply 1.2 times the average daily membership;

- (b) For districts with an average daily membership of less than six hundred, but greater than two hundred, raise the average daily membership to the 0.8293 power and multiply the result times 2.98;
 - (c) For districts with an average daily membership of six hundred or more, multiply 1.0 times their average daily membership;
- (2A) "Fall enrollment," the number of kindergarten through twelfth grade students enrolled in all schools operated by the school district on the last Friday of September of the previous school year minus the number of students for whom the district receives tuition, except nonresident students who are in the care and custody of a state agency and are attending a public school and students for whom tuition is being paid pursuant to § 13-28-42.1, plus the number of students for whom the district pays tuition. When computing state aid to education for a school district under the foundation program pursuant to § 13-13-73, the secretary of the Department of Education shall use either the school district's fall enrollment or the average of the school district's fall enrollment and the school district's fall enrollment from the prior year, whichever is higher. However, if a school district qualifies to benefit from both the averaging permitted in this subdivision and the one-time payment provided in § 13-13-80 in the same fiscal year, the school district may not benefit from both, but only from the one that provides the most additional funding to the district;
- (2B) "Current fall enrollment," the number of kindergarten through twelfth grade students enrolled in all schools operated by the school district on the last Friday of September of the current school year minus the number of students for whom the district receives tuition except nonresident students who are in the care and custody of a state agency and are attending a public school and students for whom tuition is being paid pursuant to § 13-28-42.1, plus the number of students for whom the district pays tuition;

- (2C) "Small school adjustment," calculated as follows:
- (a) For districts with a fall enrollment of two hundred or less, multiply 0.2 times \$4,237.72;
 - (b) For districts with a fall enrollment of greater than two hundred, but less than six hundred, multiply the fall enrollment times negative 0.0005; add 0.3 to that result; and multiply the sum obtained times \$4,237.72;
- (3) "Index factor," is the annual percentage change in the consumer price index for urban wage earners and clerical workers as computed by the Bureau of Labor Statistics of the United States Department of Labor for the year before the year immediately preceding the year of adjustment or three percent, whichever is less;
- (4) "Per student allocation," for school fiscal year 2011 is \$4,804.60. Each school fiscal year thereafter, the per student allocation is the previous fiscal year's per student allocation increased by the index factor;
- (5) "Local need," is the sum of:
- (a) The per student allocation multiplied by the fall enrollment; and
 - (b) The small school adjustment, if applicable, multiplied by the fall enrollment; and
 - (c) The payment distributed pursuant to § 13-13-80, if applicable;
- (6) "Local effort," the amount of ad valorem taxes generated in a school fiscal year by applying the levies established pursuant to § 10-12-42;
- (7) "General fund balance," the unreserved fund balance of the general fund, less general fund exclusions plus, beginning with transfers made in fiscal year 2001, any transfers out of the general fund for the previous school fiscal year;
- (8) "General fund balance percentage," is a school district's general fund balance divided by the school district's total general fund expenditures for the previous school fiscal year, the

quotient expressed as a percent;

- (9) "General fund base percentage," is the lesser of:
- (a) The general fund balance percentage as of June 30, 2000; or
 - (b) The maximum allowable percentage for that particular fiscal year as stated in this subsection.

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

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

Section 2. That § 13-37-35.1 be amended to read as follows:

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

- (1) "Level one disability," a mild disability;
- (2) "Level two disability," cognitive disability or emotional disorder;
- (3) "Level three disability," hearing impairment, deafness, visual impairment, deaf-blindness,

orthopedic impairment, or traumatic brain injury;

- (4) "Level four disability," autism;
- (5) "Level five disability," multiple disabilities;
- (5A) "Level six disability," prolonged assistance;
- (6) "Index factor," is the annual percentage change in the consumer price index for urban wage earners and clerical workers as computed by the Bureau of Labor Statistics of the United States Department of Labor for the year before the year immediately preceding the year of adjustment or three percent, whichever is less;
- (7) "Local effort," shall be calculated for taxes payable in 2011 and shall be the amount of revenue that could have been generated for the taxes payable in 2010 using a special education levy of one dollar and twenty cents per one thousand dollars of valuation increased by the lesser of three percent or the index factor, as defined in § 10-13-38, plus a percentage increase of value resulting from any improvements or change in use of real property, annexation, minor boundary changes, and any adjustments in taxation of real property separately classified and subject to statutory adjustments and reductions under chapters 10-4, 10-6, 10-6A, and 10-6B, except § 10-6-31.4, only if assessed the same as property of equal value.

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

- (8) "Allocation for a student with a level one disability," for the school fiscal year beginning July 1, 2010, is \$4,057. For each school year thereafter, the allocation for a student with a level one disability shall be the previous fiscal year's allocation for such child increased by the lesser of the index factor or three percent;
- (9) "Allocation for a student with a level two disability," for the school fiscal year beginning July 1, 2010, is \$9,471. For each school year thereafter, the allocation for a student with a level two disability shall be the previous fiscal year's allocation for such child increased by the lesser of the index factor or three percent;
- (10) "Allocation for a student with a level three disability," for the school fiscal year beginning July 1, 2010, is \$15,220. For each school year thereafter, the allocation for a student with a level three disability shall be the previous fiscal year's allocation for such child increased by the lesser of the index factor or three percent;
- (11) "Allocation for a student with a level four disability," for the school fiscal year beginning July 1, 2010, is \$13,164. For each school year thereafter, the allocation for a student with a level four disability shall be the previous fiscal year's allocation for such child increased by the lesser of the index factor or three percent;
- (12) "Allocation for a student with a level five disability," for the school fiscal year beginning July 1, 2010, is \$16,539. For each school year thereafter, the allocation for a student with a level five disability shall be the previous fiscal year's allocation for such child increased by the lesser of the index factor or three percent;
- (12A) "Allocation for a student with a level six disability," for the school fiscal year beginning July 1, 2010, is \$8,438. For each school year thereafter, the allocation for a student with a level six disability shall be the previous fiscal year's allocation for such child increased by the lesser of the index factor or three percent;

- (13) "Child count," is the number of students in need of special education or special education and related services according to criteria set forth in rules promulgated pursuant to §§ 13-37-1.1 and 13-37-46 submitted to the Department of Education in accordance with rules promulgated pursuant to § 13-37-1.1;
- (14) "Fall enrollment," the number of kindergarten through twelfth grade pupils enrolled in all schools operated by the school district on the last Friday of September of the previous school year minus the number of students for whom the district receives tuition, except any nonresident student who is in the care and custody of a state agency and is attending a public school and any student for whom tuition is being paid pursuant to § 13-28-42.1, plus the number of students for whom the district pays tuition;
- (15) "Nonpublic school," a sectarian organization or entity which is accredited by the secretary of education for the purpose of instructing children of compulsory school age. This definition excludes any school that receives a majority of its revenues from public funds;
- (16) "Nonpublic fall enrollment," until June 30, 2008, the number of children under age sixteen, and beginning July 1, 2009, the number of children under age eighteen, who are approved for alternative instruction pursuant to § 13-27-2 on the last Friday of September of the previous school year plus:
- (a) For nonpublic schools located within the boundaries of a public school district with a fall enrollment of six hundred or more on the last Friday of September of the previous school year, the number of kindergarten through twelfth grade pupils enrolled on the last Friday of September of the previous regular school year in all nonpublic schools located within the boundaries of the public school district;
 - (b) For nonpublic schools located within the boundaries of a public school district with a fall enrollment of less than six hundred on the last Friday of September of the

previous school year, the number of resident kindergarten through twelfth grade pupils enrolled on the last Friday of September of the previous school year in all nonpublic schools located within the State of South Dakota;

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

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

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

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

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

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

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

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

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

(19) "Effort factor," for taxes payable in 2011, 2012, 2013, 2014, and 2015, the effort factor

is the amount of taxes payable for the year divided by the amount of local effort as calculated in subdivision (7). The maximum effort factor is 1.0.

An Act to revise the per student allocation in the state aid to general education formula, and to revise certain allocations for disabilities in the state aid to special education formula.

=====

I certify that the attached Act
originated in the

SENATE as Bill No. 22

Secretary of the Senate
=====

President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 22
File No. _____
Chapter No. _____

=====

Received at this Executive Office
this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor
=====

The attached Act is hereby
approved this _____ day of
_____, A.D., 20____

Governor

=====

STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State