

# State of South Dakota

EIGHTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2013

767U0727

## HOUSE APPROPRIATIONS

### ENGROSSED NO. **SB 237** - 03/04/2013

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

Introduced by: Senators Olson (Russell), Adelstein, Brown, Johnston, Lederman, Rave, and Vehle and Representatives Lust, Bartling, Cronin, Feickert, Gibson, Hajek, Hawks, Hawley, Heinemann (Leslie), Heinert, Hunhoff (Bernie), Killer, Kirschman, Mickelson, Munsterman, Parsley, Peterson, Ring, Schrempp, Soli, Tyler, Westra, and Wismer

1 FOR AN ACT ENTITLED, An Act to appropriate funds for deposit into the need-based grant  
2 fund, to provide for annual funding of the need-based grant fund with a portion of the funds  
3 received from the education enhancement trust fund, and to declare an emergency.

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

5 Section 1. That § 13-55A-1 be amended to read as follows:

6 13-55A-1. The South Dakota Legislature finds that providing need-based financial aid to  
7 qualified resident students ~~in education beyond high school in South Dakota~~ enrolled in  
8 participating postsecondary institutions within the state is in the public interest.

9 Section 2. That § 13-55A-2 be amended to read as follows:

10 13-55A-2. Terms used in this chapter, unless the context otherwise requires, mean:

11 (1) "Eligible institution," an institution of education beyond the high school level,  
12 located in South Dakota, which may include all public and private nonprofit and



1 proprietary institutions, including four-year colleges and universities, community and  
2 junior colleges, area technical or vocational schools, trade schools, technical  
3 institutes, schools of nursing or of the health professions or any institution which is  
4 determined by the executive director to be regularly accredited to offer postsecondary  
5 educational services by a recognized and appropriate accrediting agency, as  
6 determined by the executive director, and which has an agreement with the United  
7 States secretary of education for the conduct of any of the programs currently  
8 participating in any federal financial assistance program authorized by Title IV of  
9 The Higher Education Act of 1965, as amended to January 1, 2010;

10 (2) "Financial need," the amount of assistance, as determined by a federal department of  
11 education by calculating a student's estimated cost of attendance (minus family  
12 contribution and additional aid granted) at an eligible institution;

13 (3) "Qualified student," a resident student who is enrolled in an eligible institution in a  
14 course of study on at least a half-time basis, as certified by the institution, and who  
15 has established financial need and who is maintaining satisfactory progress toward  
16 graduation;

17 (4) "Resident student," an individual who has been determined by the executive director  
18 to be a resident of South Dakota and who is enrolled at an eligible institution;

19 (5) "Executive director," the executive director of the Board of Regents;

20 (6) "~~Leveraging Educational Assistance Partnership~~ South Dakota need-based grant or  
21 ~~Special Leveraging Educational Assistance Partnership grant~~," an award by the State  
22 of South Dakota to a qualified student under this chapter.

23 Section 3. That § 13-55A-3 be amended to read as follows:

24 13-55A-3. A ~~leveraging educational assistance partnership~~ South Dakota need-based grant

1 ~~or special leveraging educational assistance partnership grant~~ may be awarded to any qualified  
2 South Dakota resident student who is admitted and is in attendance at any eligible institution  
3 on at least a half-time basis, and has established financial need ~~and has received qualifying~~  
4 ~~matching aid.~~

5 Section 4. That § 13-55A-4 be amended to read as follows:

6 13-55A-4. A participating eligible institution shall ~~calculate the amount of award a~~  
7 ~~leveraging educational assistance partnership~~ South Dakota need-based grant ~~or special~~  
8 ~~leveraging educational assistance partnership grant~~ to a qualified student for the normal  
9 academic year, or its equivalent, from a range of not less than ~~one~~ five hundred dollars nor more  
10 than ~~one~~ two thousand dollars, ~~and shall make a recommendation to the executive director for~~  
11 ~~his approval, disapproval or modification.~~ The institution making the recommendation for each  
12 ~~leveraging educational assistance partnership~~ South Dakota need-based grant ~~or special~~  
13 ~~leveraging educational assistance partnership grant~~ shall consider any other financial assistance  
14 available to the qualified student in relation to the financial assistance available to other  
15 qualified students attending that institution and may not exceed the lesser of the unmet need of  
16 the qualified student or the amount of qualifying matching aid.

17 Section 5. That § 13-55A-5 be amended to read as follows:

18 13-55A-5. Each applicant, in accordance with the rules and regulations of the executive  
19 director, shall:

- 20 (1) Be responsible for providing the information required to make a financial need  
21 determination; and
- 22 (2) Report promptly to the ~~executive director~~ participating institution any information  
23 requested which is necessary to make a proper determination with respect to the  
24 student's need determination.

1 Section 6. That § 13-55A-10 be amended to read as follows:

2 13-55A-10. If a recipient of a ~~leveraging educational assistance partnership~~ South Dakota  
3 need-based grant or ~~special leveraging educational assistance partnership grant~~ discontinues  
4 attendance before the end of any semester, summer school ~~sessions~~ session, or their equivalents,  
5 the entire amount of any refund due that student from the eligible institution on a pro rata basis,  
6 up to the amount of any payment made under the ~~leveraging educational assistance partnership~~  
7 South Dakota need-based grants or ~~special leveraging educational assistance partnership grant~~,  
8 shall be paid by the eligible institution to the state.

9 Section 7. That § 13-55A-11 be amended to read as follows:

10 13-55A-11. The executive director shall administer this program and shall:

- 11 (1) Adopt rules and regulations, pursuant to chapter 1-26, to define tuition and  
12 mandatory fees, to define residents for the purposes of this chapter, and to determine  
13 the amount of grant funds available to students at each eligible institution. The  
14 executive director may provide for proration of funds if the available funds are  
15 insufficient to pay all approved grants;
- 16 (2) Approve and award ~~leveraging educational assistance partnership~~ South Dakota  
17 need-based grants or ~~special leveraging educational assistance partnership grants~~; and
- 18 (3) Establish and maintain records required by good accounting practices.

19 Section 8. That § 13-55A-12 be amended to read as follows:

20 13-55A-12. The ~~executive director~~ Board of Regents is further authorized to establish a  
21 South Dakota need-based matching program. Any postsecondary institution eligible to  
22 participate in the program established under § 13-55A-1 may apply to the executive director  
23 once it has accumulated funding equal to three times the total need-based award. When an  
24 award is made, the board may distribute such monies at the rate of one dollar of the sum

1 appropriated in this Act for every three dollars of private funding held and allocated to need-  
2 based financial aid by the participating institution. The Board of Regents may accept gifts,  
3 grants, and contributions, public or private, that will facilitate the education of South Dakota  
4 students pursuant to this chapter.

5 Section 9. That § 13-55A-12.1 be amended to read as follows:

6 13-55A-12.1. The executive director is hereby authorized to accept and expend any funds  
7 received from ~~federal~~ state or private sources as provided for in this chapter, provided such  
8 acceptance and expenditure is approved in accordance with § 4-8B-10. Expenditures authorized  
9 under this section shall be paid out on warrants drawn by the state auditor on vouchers approved  
10 by the executive director, ~~or his designee.~~

11 Section 10. There is hereby appropriated from the general fund the sum of two dollars (\$2)  
12 to the need-based grant fund established pursuant to § 13-55A-14.

13 Section 11. That § 13-55A-14 be amended to read as follows:

14 13-55A-14. There is hereby created in the ~~state treasury~~ education enhancement trust fund  
15 the South Dakota need-based grant fund ~~in the Board of Regents~~ for the purpose of providing  
16 grants through the Board of Regents pursuant to this chapter to qualified students. All moneys  
17 ~~in distributions from~~ the South Dakota need-based grant fund are subject to transfer to the  
18 general fund and appropriation by the Legislature through the General Appropriations Act or  
19 special appropriations acts for the need-based grant programs consistent with the provision of  
20 S.D. Const., Art. XII, § 6, and section 13 of this Act. ~~Any interest earned shall be credited to the~~  
21 ~~fund.~~ The board may accept any gifts, contributions, or funds obtained from any other source  
22 for the purpose of carrying out the provisions of this section.

23 Section 12. The state treasurer shall approve vouchers and the state auditor shall draw  
24 warrants to pay expenditures authorized by this Act.

1 Section 13. That § 4-5-29.2 be amended to read as follows:

2 4-5-29.2. Pursuant to S.D. Const., Art. XII, § 6, the state investment officer shall determine  
3 the market value of the education enhancement trust fund as of December 31, 2003, and each  
4 calendar year thereafter less the investment expenses transferred pursuant to § 4-5-30. The state  
5 investment officer shall calculate an amount equal to four percent of that market value, without  
6 invading principal, as eligible for distribution. For the purpose of this section, the term,  
7 principal, means the sum of all contributions to the fund. Beginning with the distribution in  
8 fiscal year 2008, the market value shall be determined by adding the market value of the trust  
9 fund at the end of the sixteen most recent calendar quarters as of December thirty-first, and  
10 dividing the sum by sixteen. Upon notice of that amount by the state investment officer, the state  
11 treasurer shall transfer the amount from the education enhancement trust fund to the state  
12 general fund as soon as practicable after July first of the next fiscal year. Beginning in fiscal year  
13 2015, the portion of the transfer to the general fund for the need-based matching program, shall  
14 be calculated by the state investment officer based on the relative share of the contributions  
15 made to the need-based grant fund to the most recently calculated total fair value of the  
16 education enhancement fund including the contribution. The calculation shall be updated  
17 monthly to reflect any additional contributions to the education enhancement trust fund and the  
18 portion of the transfer to the general fund for the need-based matching program shall be based  
19 on the average of the monthly calculation.

20 Section 14. For fiscal year 2014, two hundred thousand dollars (\$200,000) of the education  
21 enhancement trust fund distribution shall be transferred to the need-based matching program.

22 Section 15. Whereas, this Act is necessary for the support of the state government and its  
23 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in  
24 full force and effect from and after its passage and approval.