

State of South Dakota

EIGHTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2013

767U0727

HOUSE ENGROSSED NO. **SB 237** - 03/05/2013

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
13 proprietary institutions, including four-year colleges and universities, community and



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

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

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

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

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

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

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

23 13-55A-3. A ~~leveraging educational assistance partnership~~ South Dakota need-based grant
24 ~~or special leveraging educational assistance partnership grant~~ may be awarded to any qualified

1 South Dakota resident student who is admitted and is in attendance at any eligible institution
2 on at least a half-time basis, and has established financial need ~~and has received qualifying~~
3 ~~matching aid.~~

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

5 13-55A-4. A participating eligible institution shall ~~calculate the amount of award a~~
6 ~~leveraging educational assistance partnership~~ South Dakota need-based grant ~~or special~~
7 ~~leveraging educational assistance partnership grant~~ to a qualified student for the normal
8 academic year, or its equivalent, from a range of not less than ~~one~~ five hundred dollars nor more
9 than ~~one~~ two thousand dollars; ~~and shall make a recommendation to the executive director for~~
10 ~~his approval, disapproval or modification.~~ The institution making the recommendation for each
11 ~~leveraging educational assistance partnership~~ South Dakota need-based grant ~~or special~~
12 ~~leveraging educational assistance partnership grant~~ shall consider any other financial assistance
13 available to the qualified student in relation to the financial assistance available to other
14 qualified students attending that institution and may not exceed the lesser of the unmet need of
15 the qualified student or the amount of qualifying matching aid.

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

17 13-55A-5. Each applicant, in accordance with the rules and regulations of the executive
18 director, shall:

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

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

1 13-55A-10. If a recipient of a ~~leveraging educational assistance partnership~~ South Dakota
2 need-based grant or special leveraging educational assistance partnership grant discontinues
3 attendance before the end of any semester, summer school ~~sessions~~ session, or their equivalents,
4 the entire amount of any refund due that student from the eligible institution on a pro rata basis,
5 up to the amount of any payment made under the ~~leveraging educational assistance partnership~~
6 South Dakota need-based grants or special leveraging educational assistance partnership grant,
7 shall be paid by the eligible institution to the state.

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

9 13-55A-11. The executive director shall administer this program and shall:

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

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

19 13-55A-12. The ~~executive director~~ Board of Regents is further authorized to establish a
20 South Dakota need-based matching program. Any postsecondary institution eligible to
21 participate in the program established under § 13-55A-1 may apply to the executive director
22 once it has accumulated funding equal to three times the total need-based award. When an
23 award is made, the board may distribute such monies at the rate of one dollar of the sum
24 appropriated in this Act for every three dollars of private funding held and allocated to need-

1 based financial aid by the participating institution. The Board of Regents may accept gifts,
2 grants, and contributions, public or private, that will facilitate the education of South Dakota
3 students pursuant to this chapter.

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

5 13-55A-12.1. The executive director is hereby authorized to accept and expend any funds
6 received from ~~federal~~ state or private sources as provided for in this chapter, provided such
7 acceptance and expenditure is approved in accordance with § 4-8B-10. Expenditures authorized
8 under this section shall be paid out on warrants drawn by the state auditor on vouchers approved
9 by the executive director, ~~or his designee.~~

10 Section 10. There is hereby appropriated from the general fund the sum of one million five
11 hundred thousand dollars (\$1,500,000) to the need-based grant fund established pursuant to
12 § 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. Any
17 contributions into the education enhancement trust fund not designated for any other purpose
18 shall be allocated to the need-based grant fund. All ~~moneys in~~ distributions from the South
19 Dakota need-based grant fund are subject to transfer to the general fund and appropriation by
20 the Legislature through the General Appropriations Act or special appropriations acts for the
21 need-based grant programs consistent with the provision of S.D. Const., Art. XII, § 6, and
22 section 13 of this Act. ~~Any interest earned shall be credited to the fund.~~ The board may accept
23 any gifts, contributions, or funds obtained from any other source for the purpose of carrying out
24 the provisions of this section.

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

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

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

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

24 Section 15. Whereas, this Act is necessary for the support of the state government and its

- 1 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in
- 2 full force and effect from and after its passage and approval.