

# State of South Dakota

EIGHTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2013

497U0092

## SENATE ENGROSSED NO. **SB 5** - 01/23/2013

**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), Bradford, Johnston, Jones, Kirkeby, Peters, Tidemann, and White and Representatives Dryden, Munsterman, and Wismer at the request of the Interim Postsecondary Education-Purpose and Funding Study Committee

1 FOR AN ACT ENTITLED, An Act to establish the public purpose and goals of postsecondary  
2 education, to provide for the funding of higher education, and to create the Council on  
3 Higher Education Policy Goals, Performance, and Accountability.

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

5 Section 1. Terms used in this Act mean:

- 6 (1) "Average state appropriation per higher education student," the average state general  
7 fund appropriation for each student enrolled in an institution of higher education  
8 under the control of the Board of Regents for the previous fiscal year as determined  
9 by the Bureau of Finance and Management;
- 10 (2) "Full-time equivalent," at the postsecondary technical institutes equals thirty credit  
11 hours of instruction per year, and at the institutions under the control of the Board  
12 of Regents equals thirty credit hours of instruction per year for undergraduates,  
13 twenty-four credit hours of instruction per year for students seeking master's and



1           doctoral degrees, thirty credit hours of instruction per year for students in law school,  
2           and thirty-eight credit hours of instruction per year for students in medical school;

3           (3) "Projected state general fund increase," the estimated percentage change in state  
4           general fund revenue, as submitted by the Governor pursuant to § 4-7-10 or as  
5           adopted by the standing committees on appropriations;

6           (4) "Public postsecondary education institutions," the postsecondary technical institutes  
7           under the control of the Board of Education and the institutions of higher education  
8           under the control of the Board of Regents; and

9           (5) "Public postsecondary education systems," the system of postsecondary technical  
10          institutes under the control of the Board of Education and the system of institutions  
11          of higher education under the control of the Board of Regents.

12          Section 2. The Legislature hereby finds, and declares to be the public policy of this state,  
13          that the purpose of public postsecondary education is to provide the following:

14          (1) A workforce that meets the current and prospective needs of the state's economy;

15          (2) Affordable postsecondary educational opportunities for all state citizens;

16          (3) Access to postsecondary education programs that serve to increase the educational  
17          attainment of the state's citizenry and thereby enable citizens to provide leadership  
18          in all sectors of life in the state; and

19          (4) A foundation upon which the state can grow the development and innovation  
20          capacities of the state's economy.

21          Section 3. The Legislature hereby recognizes that the current goals for public postsecondary  
22          education systems and institutions are as follows:

23          (1) To increase the number of graduates for the state's workforce; and

24          (2) To increase the growth capacity of the state's economy by increasing the innovation

1 and development capacity of the state and by increasing the skills of the state's  
2 current workforce.

3 Section 4. The Council on Higher Education Policy Goals, Performance, and Accountability,  
4 established in section 6 of this Act, shall use the following performance metrics to monitor the  
5 institutional progress toward the goals declared in section 3 of this Act:

6 (1) For the goal in section 3, subdivision (1) of this Act:

7 (a) Increases in the number of graduates at all postsecondary education  
8 institutions, particularly those graduates in select disciplines and at certain  
9 levels, and those graduates who remain in the state for employment or further  
10 study;

11 (b) Increases in the number of undergraduate degrees earned by at-risk students,  
12 including low-income students, Native American students, nontraditional  
13 students, and those students underprepared for higher education;

14 (c) Increases in credit hour completions at all public postsecondary education  
15 institutions; and

16 (d) Increases in the retention of students from their first year of postsecondary  
17 education to their second year of postsecondary education at all public  
18 postsecondary education institutions;

19 (2) For the goal stated in section 3, subdivision (2) of this Act, increases in the  
20 expenditures in research at postsecondary institutions under the control of the Board  
21 of Regents.

22 Section 5. Sections 3 and 4 of this Act are repealed on June 30, 2015.

23 Section 6. There is hereby created the Council on Higher Education Policy Goals,  
24 Performance, and Accountability. The council shall consist of the following members:

- 1 (1) The Governor or the Governor's designee;
- 2 (2) The secretary of the Department of Labor and Regulation;
- 3 (3) The commissioner of the Governor's Office of Economic Development;
- 4 (4) The commissioner of the Bureau of Finance and Management;
- 5 (5) Three members of the House of Representatives, appointed by the speaker of the  
6 House of Representatives;
- 7 (6) Three members of the Senate, appointed by the president pro tempore of the Senate;
- 8 (7) Two members of the Board of Regents;
- 9 (8) The executive director of the Board of Regents;
- 10 (9) The secretary of the Department of Education;
- 11 (10) The director of the Division of Curriculum, Career and Technical Education in the  
12 Department of Education;
- 13 (11) A president of an institution of higher education under the control of the Board of  
14 Regents who shall serve for one year and be determined by a rotating order based on  
15 the year of the establishment of the institution; and
- 16 (12) A president of a public postsecondary technical institute who shall serve for one year  
17 and be determined by a rotating order based on the year of the establishment of the  
18 postsecondary technical institute.

19 The Governor or the Governor's designee shall serve as the chair of the council. In 2013 and  
20 2014, the council shall meet once each year to monitor the progress of the public postsecondary  
21 education systems and institutions toward the goals established in section 3 of this Act.

22 Section 7. Beginning in 2015, and in every year immediately following a gubernatorial  
23 election thereafter, the Council on Higher Education Policy Goals, Performance, and  
24 Accountability shall meet to review, endorse, and recommend to the executive branch, the

1 Legislature, and the respective postsecondary education governing boards the four-year goals  
2 for the public postsecondary education systems and institutions and the performance metrics by  
3 which the council will monitor the progress toward those goals. The initial goals established by  
4 the council shall take effect on July 1, 2015, and subsequent goals will take effect every four  
5 years thereafter. In intervening years, the council shall meet annually to monitor the progress  
6 toward the goals. When establishing goals and performance metrics, the council shall draw upon  
7 public input from any persons who may be concerned or knowledgeable in these areas. A  
8 majority of the members appointed to the council constitutes a quorum for the purposes of  
9 conducting business. Any action may be taken by a vote of the majority of the members present  
10 at a meeting. The duties of the council include only those stipulated in this Act and do not  
11 impinge on the constitutional powers and duties of the Board of Regents or the legislative  
12 powers and duties of the Board of Education or include participation in the operation,  
13 management, or oversight of any postsecondary education institution in the state.

14 Section 8. The Board of Regents and the Board of Education shall each provide to the  
15 Council on Higher Education Policy Goals, Performance, and Accountability an annual  
16 accountability report. The initial accountability report, to be provided to the council in 2013,  
17 shall contain, for each of the postsecondary education institutions under the respective board's  
18 control, information on the following:

- 19 (1) Improvements in on-time degree completions;
- 20 (2) Affordability for students;
- 21 (3) The placement of graduates in jobs or further study in South Dakota; and
- 22 (4) Improvements in the percentages of graduates who are successful in passing  
23 licensure, certification, or exit exams administered by third parties.

24 The council shall determine the content of subsequent accountability reports.

1 Section 9. To achieve the public purpose and goals established for postsecondary education  
2 in the state pursuant to this Act, the state funding for the higher education system may be  
3 calculated as follows:

4 (1) If the projected state general fund increase allows, the higher education system may  
5 receive funding through the normal budgeting process for performance funding. Any  
6 sum appropriated from the general fund for the purpose of performance funding shall  
7 be provided to the Board of Regents. The Board of Regents shall then determine the  
8 allocation of funds to the institutions it governs that reflect institutional performance  
9 and system strategic investments. For fiscal years 2014 and 2015, funds appropriated  
10 for performance funding shall be awarded to the higher education institutions based  
11 on improvements in the following areas:

12 (a) One-half of the performance funding shall be based on the number of new  
13 graduates with special emphasis on those graduates with degrees in science,  
14 technology, engineering, and mathematics or other critical need areas as  
15 determined by the Council on Higher Education Policy Goals, Performance,  
16 and Accountability established in section 6 of this Act; and

17 (b) One-half of the funding shall be based on the growth of expenditures for  
18 research;

19 For fiscal year 2016 and in subsequent fiscal years, the performance funding shall be  
20 awarded to the Board of Regents based on criteria established by the Council of  
21 Higher Education Policy Goals, Performance and Accountability; and

22 (2) If the higher education system receives the performance funding in subdivision (1),  
23 and the cost of the performance funding is less than the projected state general fund  
24 increase, the higher education institutions may also receive, through the normal

1 budgeting process, a mission expansion increase calculated pursuant to this  
2 subsection to reflect expanded student services and increases in enrollments and  
3 credit hour completions. If the performance funding provided pursuant to subdivision  
4 (1), and the amount calculated in this subdivision for a mission expansion increase  
5 is greater than the projected state general fund increase, each higher education  
6 institution shall receive a pro rata share of the total amount calculated. The mission  
7 expansion increase shall be calculated as follows:

8 (a) Each institution of higher education shall receive a payment equal to one-half  
9 of the average state appropriation per higher education student for each full-  
10 time equivalent enrollment in the previous fiscal year that exceeded the total  
11 full-time equivalent enrollment in the year preceding the previous fiscal year;  
12 and

13 (b) Each institution of higher education shall also receive a payment equal to one-  
14 half of the average state appropriation per higher education student for each  
15 full-time equivalent of credit hour completions in the previous fiscal year that  
16 exceeded the total full-time equivalent of credit hour completions in the year  
17 preceding the previous fiscal year. The full-time equivalent of credit hour  
18 completions for which an institution is entitled to a payment pursuant to this  
19 section shall be calculated as follows:

20 (i) For the previous fiscal year, at each degree level, divide the total  
21 number of credit hours completed at that institution by the number of  
22 credit hours required to be a full-time equivalent student;

23 (ii) For the year prior to the previous fiscal year, at each degree level,  
24 divide the total number of credit hours completed at that institution by

- 1                   the number of credit hours required to be a full-time equivalent student;
- 2                   (iii) If the product of subsection (i) is greater than the product of subsection
- 3                   (ii), calculate the difference between the two at each degree level; and
- 4                   (iv) Add together the results for each degree level;

5                   In addition to the mission expansion funding calculated pursuant to this subsection,  
6                   the Legislature may also provide additional funding to institutions of higher  
7                   education for the expansion of program mission; and

- 8                   (3) If the higher education system receives the performance funding in subdivision (1)
- 9                   and the mission expansion increase in subdivision (2), and the cost of both of the
- 10                  increases is less than the projected state general fund increase, the higher education
- 11                  system may receive, through the normal budgeting process, an operating budget
- 12                  inflationary increase equal to the annual percentage change in the consumer price
- 13                  index for urban wage earners and clerical workers as computed by the Bureau of
- 14                  Labor Statistics of the United States Department of Labor for the year before the year
- 15                  immediately preceding the year of adjustment or three percent, whichever is less. For
- 16                  the purpose of this section, the operating budget does not include any portion of the
- 17                  budget that contains funding for salaries and benefits for any employees provided by
- 18                  the Legislature through the General Appropriations Act.