

State of South Dakota

EIGHTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2010

956R0362

HOUSE EDUCATION ENGROSSED NO. **HB 1150** - 2/17/2010

Introduced by: Representatives Peters, Blake, Bolin, Brunner, Curd, Cutler, Engels, Faehn, Gibson, Gosch, Hunt, Jensen, Kirkeby, Krebs, Lange, Lederman, Lust, McLaughlin, Moser, Noem, Novstrup (David), Olson (Ryan), Rounds, Sly, Solberg, Solum, Sorenson, Steele, Thompson, Tidemann, and Turbiville and Senators Gray, Abdallah, Dempster, Gant, Hansen (Tom), Haverly, Jerstad, Merchant, Miles, Novstrup (Al), Schmidt, Tieszen, and Turbak Berry

1 FOR AN ACT ENTITLED, An Act to revise the calculation of the small school adjustment in
2 the state aid to education formula for certain students who participate in open enrollment.

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

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

5 13-13-10.1. Terms used in this chapter mean:

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

12 (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 The total fall enrollment of a school district determines if a school district falls into
21 either category (a) or category (b) above or is not eligible to receive the small school
22 adjustment. However, if the fall enrollment of a school district includes any student
23 who is participating in the enrollment options program pursuant to § 13-28-40, the
24 small school adjustment calculated for that student shall be based upon either the fall

1 enrollment of that student's resident school district or the fall enrollment of the school
2 district in which the student is enrolled, whichever is greater. If either the student's
3 resident school district or the receiving school district is not eligible to receive the
4 small school adjustment based upon the size of its fall enrollment, no small school
5 adjustment may be calculated for that student in the receiving school district even if
6 the receiving school district is otherwise eligible for the small school adjustment
7 based upon the size of its fall enrollment. If both the student's resident school district
8 and the school district in which the student is enrolled are eligible to receive the
9 small school adjustment, the amount calculated for that student in the receiving
10 school district shall be based upon the fall enrollment of either the resident school
11 district or the receiving school district, whichever is greater. However, the provisions
12 in this subdivision relative to students participating in the enrollment options
13 program do not apply to any student in the enrollment options program who enrolls
14 in a school district defined as sparse pursuant to § 13-13-78, and the small school
15 adjustment calculated for that student is based on the fall enrollment of the sparse
16 school district;

17 (3) "Index factor," is the annual percentage change in the consumer price index for urban
18 wage earners and clerical workers as computed by the Bureau of Labor Statistics of
19 the United States Department of Labor for the year before the year immediately
20 preceding the year of adjustment or three percent, whichever is less;

21 (4) "Per student allocation," for school fiscal year 2009 is \$4,664.66. Each school fiscal
22 year thereafter, the per student allocation is the previous fiscal year's per student
23 allocation increased by the index factor;

24 (5) "Local need," is the sum of:

- 1 (a) The per student allocation multiplied by the fall enrollment; and
- 2 (b) The small school adjustment, if applicable, multiplied by the fall enrollment;
- 3 and
- 4 (c) The payment distributed pursuant to § 13-13-80, if applicable;
- 5 (6) "Local effort," the amount of ad valorem taxes generated in a school fiscal year by
- 6 applying the levies established pursuant to § 10-12-42;
- 7 (7) "General fund balance," the unreserved fund balance of the general fund, less general
- 8 fund exclusions plus, beginning with transfers made in fiscal year 2001, any transfers
- 9 out of the general fund for the previous school fiscal year;
- 10 (8) "General fund balance percentage," is a school district's general fund balance divided
- 11 by the school district's total general fund expenditures for the previous school fiscal
- 12 year, the quotient expressed as a percent;
- 13 (9) "General fund base percentage," is the lesser of:
- 14 (a) The general fund balance percentage as of June 30, 2000; or
- 15 (b) The maximum allowable percentage for that particular fiscal year as stated in
- 16 this subsection.
- 17 For fiscal year 2008, the maximum allowable percentage is one hundred percent; for
- 18 fiscal year 2009, eighty percent; for fiscal year 2010, sixty percent; for fiscal year
- 19 2011, forty percent; for fiscal year 2012 and subsequent fiscal years, twenty-five
- 20 percent. However, the general fund base percentage can never be less than twenty-
- 21 five percent;
- 22 (10) "Allowable general fund balance," the general fund base percentage multiplied by the
- 23 district's general fund expenditures in the previous school fiscal year;
- 24 (11) "General fund exclusions," revenue a school district has received from the imposition

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

8 Section 2. That § 13-13-73 be amended to read as follows:

9 13-13-73. The secretary of the Department of Education shall compute state aid to education
10 for each school district under the foundation program according to the following calculations:

- 11 (1) Determine each school district's fall enrollment;
- 12 (2) To arrive at the local need per district:
 - 13 (a) Multiply the per student allocation by the total fall enrollment;
 - 14 (b) ~~Multiply the small school adjustment , if applicable, by the fall enrollment~~
15 Divide the total fall enrollment into subgroups based upon the small school
16 adjustment applicable to each subgroup as calculated pursuant to subdivision
17 13-13-10.1(2C), and multiply the fall enrollment within each subgroup by the
18 small school factor appropriate for that subgroup; and
 - 19 (c) Add the product of subsection (a) to the product or products of subsection (b)
20 plus the amount of any payments received pursuant to § 13-13-80;
- 21 (3) State aid is (a) local need minus local effort, or (b) zero if the calculation in (a) is a
22 negative number;
- 23 (4) If the state aid appropriation for the general support of education is in excess of the
24 entitlement provided for in this section, the excess shall be used to fund any shortfall

1 of the appropriation as provided for in § 13-37-36.3. The secretary shall report to the
2 Governor by January seventh of each year, the amount of state aid necessary to fully
3 fund the general aid formula in the current year. If a shortfall in the state aid
4 appropriation for general education exists that cannot be covered by § 13-37-45, the
5 Governor shall inform the Legislature and provide a proposal to eliminate the
6 shortfall.

7 Section 3. That § 13-28-40 be amended to read as follows:

8 13-28-40. An enrollment options program is established to enable any South Dakota
9 kindergarten through twelfth grade student to attend any public school that serves the student's
10 grade level in any South Dakota school district, subject to the provisions in §§ 13-28-40 to 13-
11 28-47, inclusive. For purposes of determining state aid to education as it relates to the provisions
12 of §§ 13-28-40 to 13-28-47, inclusive, fall enrollment as defined in § 13-13-10.1 is used to
13 compute foundation aid and ~~special~~ any small school adjustment as calculated pursuant to
14 subdivision 13-13-10.1(2C) to which a school district is entitled for any student participating
15 in this program is based on the fall enrollment of the student's resident school district or the
16 receiving district, whichever is greater. However, if a school district defined as sparse pursuant
17 to § 13-13-78 is the receiving district, the small school adjustment for all students enrolled in
18 that district is based on the fall enrollment of the sparse school district. Special education
19 average daily membership as defined in § 13-37-35.1 is used to determine funding for special
20 education.