

# State of South Dakota

EIGHTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2011

686S0523

## SENATE EDUCATION ENGROSSED NO. **SB 72** - 2/1/2011

Introduced by: Senators Peters, Brown, Haverly, Kraus, Lederman, Novstrup (Al), Olson (Russell), and Tidemann and Representatives Sly, Brunner, Cronin, Dryden, Gosch, Hubbel, Moser, Munsterman, Nelson (Stace), Novstrup (David), and Willadsen

1 FOR AN ACT ENTITLED, An Act to revise how certain kindergarten students are counted for  
2 the purpose of state aid to education funding, to establish in statute the minimum number  
3 of hours required in a school term for grades one through three, and to provide for the  
4 redistribution of certain funds appropriated for state aid to education.

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

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

7 13-13-10.1. Terms used in this chapter mean:

8 (1) "Average daily membership," the average number of resident and nonresident  
9 kindergarten through twelfth grade pupils enrolled in all schools operated by the  
10 school district during the previous regular school year, minus average number of  
11 pupils for whom the district receives tuition, except pupils described in subdivision  
12 (1A) and pupils for whom tuition is being paid pursuant to § 13-28-42.1 and plus the  
13 average number of pupils for whom the district pays tuition;



1 (1A) Nonresident students who are in the care and custody of the Department of Social  
2 Services, the Unified Judicial System, the Department of Corrections, or other state  
3 agencies and are attending a public school may be included in the average daily  
4 membership of the receiving district when enrolled in the receiving district. When  
5 counting a student who meets these criteria in its general enrollment average daily  
6 membership, the receiving district may begin the enrollment on the first day of  
7 attendance. The district of residence prior to the custodial transfer may not include  
8 students who meet these criteria in its general enrollment average daily membership  
9 after the student ceases to attend school in the resident district;

10 (2) "Adjusted average daily membership," calculated as follows:

11 (a) For districts with an average daily membership of two hundred or less,  
12 multiply 1.2 times the average daily membership;

13 (b) For districts with an average daily membership of less than six hundred, but  
14 greater than two hundred, raise the average daily membership to the 0.8293  
15 power and multiply the result times 2.98;

16 (c) For districts with an average daily membership of six hundred or more,  
17 multiply 1.0 times their average daily membership;

18 (2A) "Fall enrollment," the number of kindergarten through twelfth grade students enrolled  
19 in all schools operated by the school district on the last Friday of September of the  
20 current school year minus the number of students for whom the district receives  
21 tuition, except nonresident students who are in the care and custody of a state agency  
22 and are attending a public school and students for whom tuition is being paid  
23 pursuant to § 13-28-42.1, plus the number of students for whom the district pays  
24 tuition. Any student enrolled in a kindergarten program operating for less than eight

1 hundred and seventy-five hours, exclusive of intermissions, in a school term shall be  
2 counted on a pro rata basis as follows:

3 (a) For fiscal year 2012, any such student shall be counted as 0.75 fall enrollment;  
4 and

5 (b) For fiscal year 2013 and thereafter, any such student shall be counted on a pro  
6 rata basis according to the number of hours of operation of the program in  
7 which the student is enrolled.

8 When computing state aid to education for a school district under the foundation  
9 program pursuant to § 13-13-73, the secretary of the Department of Education shall  
10 use either the school district's fall enrollment or the average of the school district's  
11 fall enrollment from the previous two years, whichever is higher;

12 (2B) Repealed by SL 2010, ch 84, § 1.

13 (2C) "Small school adjustment," calculated as follows:

14 (a) For districts with a fall enrollment of two hundred or less, multiply 0.2 times  
15 \$4,237.72;

16 (b) For districts with a fall enrollment of greater than two hundred, but less than  
17 six hundred, multiply the fall enrollment times negative 0.0005; add 0.3 to that  
18 result; and multiply the sum obtained times \$4,237.72;

19 The determination of the small school adjustment for a school district may not  
20 include any students residing in a residential treatment facility when the education  
21 program is operated by the school district;

22 (3) "Index factor," is the annual percentage change in the consumer price index for urban  
23 wage earners and clerical workers as computed by the Bureau of Labor Statistics of  
24 the United States Department of Labor for the year before the year immediately

1 preceding the year of adjustment or three percent, whichever is less;

2 (4) "Per student allocation," for school fiscal year 2011 is \$4,804.60. Each school fiscal  
3 year thereafter, the per student allocation is the previous fiscal year's per student  
4 allocation increased by the index factor;

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

6 (a) The per student allocation multiplied by the fall enrollment; and

7 (b) The small school adjustment, if applicable, multiplied by the fall enrollment;

8 (6) "Local effort," the amount of ad valorem taxes generated in a school fiscal year by  
9 applying the levies established pursuant to § 10-12-42;

10 (7) "General fund balance," the unreserved fund balance of the general fund, less general  
11 fund exclusions plus, beginning with transfers made in fiscal year 2001, any transfers  
12 out of the general fund for the previous school fiscal year;

13 (8) "General fund balance percentage," is a school district's general fund balance divided  
14 by the school district's total general fund expenditures for the previous school fiscal  
15 year, the quotient expressed as a percent;

16 (9) "General fund base percentage," is the lesser of:

17 (a) The general fund balance percentage as of June 30, 2011; or

18 (b) The maximum allowable percentage for that particular fiscal year as stated in  
19 this subsection.

20 For fiscal year 2008, the maximum allowable percentage is one hundred percent; for  
21 fiscal year 2009, eighty percent; for fiscal year 2010, sixty percent; for fiscal years  
22 2011 to 2014, inclusive, forty percent for each fiscal year; for fiscal year 2015 and  
23 subsequent fiscal years, twenty-five percent. However, the general fund base  
24 percentage may always be at least twenty-five percent;

- 1 (10) "Allowable general fund balance," the general fund base percentage multiplied by the  
2 district's general fund expenditures in the previous school fiscal year;
- 3 (11) "General fund exclusions," revenue a school district has received from the imposition  
4 of the excess tax levy pursuant to § 10-12-43; revenue a school district has received  
5 from gifts, contributions, grants, or donations; revenue a school district has received  
6 under the provisions of §§ 13-6-92 to 13-6-96, inclusive; revenue a school district  
7 has received as compensation for being a sparse school district under the terms of  
8 §§ 13-13-78 and 13-13-79; any revenue a school district has received under the  
9 provisions of the American Recovery and Reinvestment Act of 2009 (P.L. 111-5);  
10 and any revenue in the general fund set aside for a noninsurable judgment.

11 Section 2. That § 13-26-1 be amended to read as follows:

12 13-26-1. The school fiscal year shall begin July first and end June thirtieth. Each local  
13 school board shall set the number of days in a school term, the length of a school day, and the  
14 number of school days in a school week. The local school board or governing body shall  
15 establish the number of hours in the school term for kindergarten programs, which may not be  
16 less than four hundred thirty-seven and one-half hours. ~~The Board of Education shall~~  
17 ~~promulgate rules pursuant to chapter 1-26 setting the minimum number of hours in the school~~  
18 ~~term for grades one through three. The number of hours in the school term for grades one, two,~~  
19 ~~and three may not be less than eight hundred seventy-five hours, exclusive of intermissions.~~ The  
20 number of hours in the school term for grades four through twelve may not be less than nine  
21 hundred sixty-two and one-half hours, exclusive of intermissions. An intermission is the time  
22 when pupils are at recess or lunch.

23 Section 3. That chapter 13-13 be amended by adding thereto a NEW SECTION to read as  
24 follows:

1        Any money appropriated for state aid to general education that is in excess of the amount  
2        of money necessary to meet the entitlement provided for in this chapter and to meet any shortfall  
3        pursuant to subdivision 13-13-73(4) is not subject to reversion pursuant to § 4-8-19 and shall  
4        be distributed to all school districts receiving state aid pursuant to this chapter on a pro rata basis  
5        according to each eligible school district's fall enrollment compared to the total fall enrollment  
6        of all eligible school districts.