

State of South Dakota

EIGHTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2010

400R0246

HOUSE BILL NO. 1022

Introduced by: The Committee on Education at the request of the Department of Education

1 FOR AN ACT ENTITLED, An Act to revise certain statutes to reflect the current organizational
2 structure of the Department of Education.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:1-45

4 Section 1. That § 1-45-4.4 be amended to read as follows:

5 1-45-4.4. The ~~Division of Education Services and Resources~~ of the Department of Education
6 shall develop and implement a plan to identify and evaluate hearing and visually impaired
7 children and coordinate delivery of direct educational programs and services to meet the needs
8 of all visually and hearing impaired children in South Dakota.

9 Section 2. That subdivision (69) of § 3-12-47 be amended to read as follows:

10 (69) "Teacher," any person who has a valid teacher's certificate issued by the State of
11 South Dakota, who is in the employ of a public school district, and shall also include
12 the certified teachers employed by the Human Services Center, South Dakota
13 Developmental Center--Redfield, State Penitentiary, ~~Division of Education Services~~
14 ~~and Resources~~ Department of Education, State Training School, School for the Deaf,
15 School for the Blind and the Visually Impaired, Children's Care Hospital and School,



1 public nonprofit special education facilities, community support providers certified
2 by the Department of Human Services and public financed multi-district education
3 programs;

4 Section 3. That § 13-8-47 be amended to read as follows:

5 13-8-47. Before the first day of August every school board shall file an annual report with
6 the ~~Division of Education Services and Resources~~ Department of Education. The report shall
7 contain all the educational and financial information and statistics of the school district as
8 requested in a format established by the ~~Division of Education Services and Resources~~
9 Department of Education. The business manager with assistance of the secretary of the
10 Department of Education shall make the annual report, and it shall be approved by the school
11 board. The business manager shall sign the annual report and file a copy with the ~~Division of~~
12 ~~Education Services and Resources~~ Department of Education as provided in § 13-13-37. The
13 division shall audit the report and return one copy to the school district.

14 Reports not filed prior to August fifteenth are considered past due and are subject to the
15 past-due provisions of § 13-13-38.

16 Section 4. That § 13-13-1.1 be amended to read as follows:

17 13-13-1.1. The individual school district average daily membership as calculated by the
18 ~~Division of Education Services and Resources~~ Department of Education for distribution of
19 school and public lands funds may not include pupils for whom the school district receives
20 tuition, shall include pupils for whom the district pays tuition, and shall include resident pupils
21 attending public schools within the district and resident pupils attending private schools.

22 Section 5. That § 13-13-5 be amended to read as follows:

23 13-13-5. The county treasurer shall on or before the fifth day of January and July furnish the
24 county auditor with a statement of all money in the county treasury belonging to the county

1 general school fund and shall pay the money, upon the order of the auditor, to the public school
2 districts having land area within the county in proportion to the average daily membership of
3 children residing in the school districts as certified by the ~~Division of Education Services and~~
4 ~~Resources~~ Department of Education.

5 Section 6. That § 13-13-38 be amended to read as follows:

6 13-13-38. The ~~Division of Education Services and Resources~~ Department of Education shall
7 determine on December first, or as soon thereafter as practicable, of each school fiscal year the
8 amount of foundation program funds to which each school district within the state is eligible.
9 The ~~division~~ department shall require from any county or school district officer any information
10 which is necessary in order to apportion foundation program funds. If complete and accurate
11 information is past due according to the reporting dates specified in § 13-8-47, the secretary of
12 the Department of Education on August fifteenth shall declare the school district to be fiscally
13 delinquent. The school district, unless granted an extension, shall forfeit from its entitlement one
14 hundred dollars for each day that the data is past due for seven days and two hundred dollars for
15 each day past due thereafter starting with the eighth day. Forfeited funds shall be deposited in
16 the foundation program fund established by § 13-13-12.

17 Section 7. That § 13-14-3.2 be amended to read as follows:

18 13-14-3.2. When revenue is received pursuant to § 13-14-3.1, a semiannual itemized
19 statement of each school district's entitlement shall be delivered by the ~~Division of Education~~
20 ~~Services and Resources~~ Department of Education to the state auditor who shall thereupon draw
21 warrants on the state treasurer for the amounts designated on the statement and the ~~Division of~~
22 ~~Education Services and Resources~~ Department of Education shall transmit such warrants to the
23 school districts and such moneys shall be deposited in their general fund.

24 Section 8. That § 13-35-1 be amended to read as follows:

1 13-35-1. School districts and other agencies eligible under Title 42 United States Code
2 §§ 1751 to 1769, inclusive, and §§ 1771 to 1785, inclusive, the National School Lunch Act and
3 the Child Nutrition Act of 1966, may enter into contractual agreements with the ~~Division of~~
4 ~~Education Services and Resources~~ Department of Education for the purpose of establishing
5 school food services programs. The agreements and the operation of such programs are subject
6 to the provisions of this chapter and the rules for school food services programs as adopted by
7 the South Dakota Board of Education.

8 Section 9. That § 13-35-2 be amended to read as follows:

9 13-35-2. Pupils and employed personnel of the school district or other agencies contracting
10 with the ~~Division of Education Services and Resources~~ Department of Education, who are fed
11 through a school food services program may be charged for meals.

12 Section 10. That § 13-35-4 be amended to read as follows:

13 13-35-4. A system of cost accounting shall be established by each contracting agency for the
14 school food services programs, in accordance with the accounting system established by the
15 Department of Legislative Audit with the assistance of the ~~Division of Education Services and~~
16 ~~Resources~~ Department of Education.

17 Section 11. That § 13-35-6 be amended to read as follows:

18 13-35-6. Any school district contracting with the ~~Division of Education Services and~~
19 ~~Resources~~ Department of Education to establish school food services programs pursuant to this
20 chapter may extend such program for the purpose of serving nutritionally sound meals to
21 eligible elderly persons at a place or places in a manner as determined by the school board.

22 Section 12. That § 13-37-1.2 be amended to read as follows:

23 13-37-1.2. The ~~Division of Education Services and Resources of the~~ Department of
24 Education is hereby designated as the state agency with responsibility for the education of

1 children in need of special education or special education and related services. In accordance
2 with § 13-37-1.1, the ~~division~~ department has regulatory and coordinating authority over any
3 program within ~~the Department of Education, the Department of Social Services, or any other~~
4 state agency insofar as such programs pertain to the special education of children in need of
5 special education or special education and related services.

6 Section 13. That § 13-37-2.1 be amended to read as follows:

7 13-37-2.1. As used in this chapter, the term "surrogate parent", means any individual
8 certified by the ~~Division of Education Services and Resources of the~~ Department of Education
9 to act in place of the parent of a child in need of special education when the school district
10 cannot identify or locate the parent or the child is a ward of the state.

11 Section 14. That § 13-37-24.3 be amended to read as follows:

12 13-37-24.3. The ~~Division of Education Services and Resources of the~~ Department of
13 Education shall notify all eligible districts in writing of the amount each such district is entitled
14 to under § 13-37-24 as soon as such amount is subject to calculation following enactment of an
15 appropriation bill. The ~~division~~ department shall furnish a copy of such notice to the health and
16 educational facilities authority for use in verification of any amount to be pledged by a school
17 district pursuant to §§ 13-13-39 and 13-19-1.

18 Section 15. That § 13-39-1.2 be amended to read as follows:

19 13-39-1.2. Terms used in this chapter, mean:

- 20 (1) "Adult vocational education," the training provided to upgrade or update the
21 occupational skills of persons who are preparing to, or have already, entered an
22 occupation;
- 23 (2) "Center board," the governing body of a multidistrict, career and technical academy;
- 24 (3) "~~Division~~ Department," the ~~Division of Education Services and Resources of the~~

- 1 Department of Education;
- 2 (4) "Facilities," buildings, rooms, property, and permanent equipment, including
3 vehicles, used to provide vocational education;
- 4 (5) "LEA," a local education agency limited to public school districts and the legal
5 entities that a school district is authorized to establish;
- 6 (6) "Multidistrict, career and technical academy," an educational entity designed to
7 provide career and technical education and academic courses that prepare youth for
8 a wide range of careers that require varying levels of education;
- 9 (7) "Multi-use facility," a structure or part of a structure for student or faculty use as a
10 lounge area, cafeteria, classroom, or large group area not operated as a student union
11 building in which student fees are charged and utilized to pay for construction and
12 maintenance of a facility under the direct or indirect control of the students;
- 13 (8) "Participating district," a school district which has voting representation on a center
14 board;
- 15 (9) "Postsecondary technical institute," a public nonprofit school legally authorized to
16 provide public postsecondary technical education which does not culminate in a
17 baccalaureate degree at that school;
- 18 (10) "Secretary," the state secretary of education;
- 19 (11) "State board," the South Dakota Board of Education;
- 20 (12) "Vocational education," organized programs at the secondary, postsecondary, or adult
21 levels directly related to the preparation of individuals for paid or unpaid
22 employment, or for the additional preparation for a career requiring other than a
23 baccalaureate or advanced degree.

24 Section 16. That § 13-39-17.1 be amended to read as follows:

1 13-39-17.1. The ~~division~~ department may collect fees for credentialing postsecondary
2 technical teachers. The ~~division~~ department shall credit all funds generated by these fees to a
3 fund known as the postsecondary technical credentialing fund to be administered by the state
4 treasurer. A payment from this fund is by voucher submitted to the state treasurer and is limited
5 to promulgation of rules, forms, and incidental administrative costs associated with the
6 credentialing of postsecondary technical teachers.

7 Section 17. That subdivision (6) of § 13-39-37 be amended to read as follows:

8 (6) The submission of the annual budget of the postsecondary technical institute which
9 shall include, but is not limited to, a description of programs, a list of staff positions,
10 and the amount for supplies and operating expenses associated with the programs
11 offered. The rules shall require the budget to include all operating costs of programs,
12 including those costs ineligible for reimbursement from federal and state funds, shall
13 state the procedure for amending and filing it with the ~~division of education services~~
14 ~~and resources~~ Department of Education and shall provide that failure to comply with
15 the rules may result in withholding of payments from federal and state funds;

16 Section 18. That § 13-39-39 be amended to read as follows:

17 13-39-39. The ~~division~~ department shall distribute funds to the postsecondary technical
18 institutes under the provisions of § 13-39-38 from money appropriated to the division for that
19 purpose, and from federal funds allotted to the State of South Dakota for that purpose.

20 Section 19. That § 13-42-14 be amended to read as follows:

21 13-42-14. Such hearing shall be either private or public, as the teacher or administrator may
22 elect, and the teacher or administrator shall have the right to appear in person or by counsel and
23 to produce evidence thereat. All witnesses shall be sworn before testifying and the official
24 conducting such hearing may administer the oath prescribed by law for witnesses in judicial

1 proceedings. A record in writing shall be made of the proceedings and of all evidence produced
2 thereat and shall be filed ~~in the Division of Education Services and Resources~~ with the
3 Department of Education upon conclusion of the hearing.

4 Section 20. That § 13-42-17 be amended to read as follows:

5 13-42-17. All orders of suspension or revocation shall be included in the certificate records
6 of the ~~Division of Education Services and Resources~~ Department of Education.

7 Section 21. That § 13-42-20 be amended to read as follows:

8 13-42-20. True copies of all contracts made on behalf of this state pursuant to the agreement
9 shall be kept on file in the office of the secretary of the Department of Education. The ~~Division~~
10 ~~of Education Services and Resources~~ Department of Education shall publish all such contracts
11 in convenient form.

12 Section 22. That § 13-43-17.1 be amended to read as follows:

13 13-43-17.1. The Professional Teachers Practices and Standards Commission shall operate
14 within the ~~Division of Education Services and Resources~~ Department of Education, and shall
15 retain all its prescribed functions, including administrative functions. The commission shall
16 submit such records, information, and reports in the form and at such times as required by the
17 secretary of education, except that the commission shall report at least annually.

18 Section 23. That § 13-43-39 be amended to read as follows:

19 13-43-39. The Professional Administrators Practices and Standards Commission shall
20 operate within the ~~Division of Education Services and Resources~~ Department of Education and
21 shall retain all its prescribed functions, including administrative functions. The commission
22 shall submit such records, information and reports in such form and at such times as required
23 by the South Dakota Board of Education, except that the commission shall report at least
24 annually.

1 Section 24. That § 13-47-14 be amended to read as follows:

2 13-47-14. The board shall have the power and duty to arrange for the operation of a
3 state-wide educational telecommunications network, as directed by the board, consistent with
4 the provisions of the Communications Act of 1934, as amended, and applicable rules,
5 regulations, and policies of the Federal Communications Commission and, insofar as elementary
6 and secondary education programs are concerned, consistent with policies of the ~~Division of~~
7 ~~Education Services and Resources~~ Department of Education.

8 Section 25. That subdivision (6) of § 36-27A-2 be amended to read as follows:

9 (6) School psychologists and school psychological examiners certified by the ~~division~~
10 ~~of education services and resources~~ Department of Education practicing and
11 functioning within the scope of their employment if they use the title certified school
12 psychologist or school psychological examiner;

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