

# State of South Dakota

EIGHTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2010

497R0467

## SENATE EDUCATION ENGROSSED NO. **SB 124** - 2/9/2010

Introduced by: Senators Knudson, Adelstein, Bartling, Brown, Dempster, Garnos, Gray, Hansen (Tom), Hanson (Gary), Heidepriem, Jerstad, Kloucek, Miles, Nelson, Nesselhuf, Olson (Russell), Peterson, Tieszen, and Vehle and Representatives Cutler, Curd, Elliott, Frerichs, Hunhoff (Bernie), Kirkeby, Lederman, Lucas, Lust, McLaughlin, Rausch, Rave, Schlekeway, Sorenson, Thompson, and Turbiville

1 FOR AN ACT ENTITLED, An Act to equate, within certain limits, the annual percentage  
2 increase in per student funding for general education and for special education to the  
3 projected change in state general fund revenue, and to require the Legislature to estimate  
4 general fund revenues for the current fiscal year and the next fiscal year.

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



1 average number of pupils for whom the district pays tuition;

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

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

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

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

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

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

1 tuition. When computing state aid to education for a school district under the  
2 foundation program pursuant to § 13-13-73, the secretary of the Department of  
3 Education shall use either the school district's fall enrollment or the average of the  
4 school district's fall enrollment and the school district's fall enrollment from the prior  
5 year, whichever is higher. However, if a school district qualifies to benefit from both  
6 the averaging permitted in this subdivision and the one-time payment provided in  
7 § 13-13-80 in the same fiscal year, the school district may not benefit from both, but  
8 only from the one that provides the most additional funding to the district;

9 (2B) "Current fall enrollment," the number of kindergarten through twelfth grade students  
10 enrolled in all schools operated by the school district on the last Friday of September  
11 of the current school year minus the number of students for whom the district  
12 receives tuition except nonresident students who are in the care and custody of a state  
13 agency and are attending a public school and students for whom tuition is being paid  
14 pursuant to § 13-28-42.1, plus the number of students for whom the district pays  
15 tuition;

16 (2C) "Small school adjustment," calculated as follows:

17 (a) For districts with a fall enrollment of two hundred or less, multiply 0.2 times  
18 \$4,237.72;

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

22 (2D) "State general fund revenue," all continuing receipts deposited into the state's general  
23 fund;

24 (2E) "Projected state general fund increase," the estimated percentage change in state

1 general fund revenue, as adopted by the standing committees on appropriations  
2 pursuant to section 2 of this Act, for the year of adjustment;

3 (2F) "Adjusted state general fund increase," equals the projected state general fund  
4 increase for school fiscal years 2012 and 2013. Beginning with school fiscal year  
5 2014, it equals the difference between the calculation in (a) and the calculation in (b)  
6 as follows:

7 (a) Calculate the percentage change in the projected state general fund revenue for  
8 the year of adjustment compared to the actual state general fund revenue for  
9 the fiscal year five years prior to the year of adjustment. However, if the year  
10 of adjustment is school fiscal year 2014 or 2015, the percentage change  
11 comparison is between the year of adjustment and school fiscal year 2011;

12 (b) Calculate the percentage change in the per student allocation for the fiscal year  
13 prior to the year of adjustment compared to the per student allocation for the  
14 fiscal year five years prior to the year of adjustment. However, if the year of  
15 adjustment is school fiscal year 2014 or 2015, the percentage change  
16 comparison is between the year prior to the year of adjustment and school  
17 fiscal year 2011;

18 (3) "Index factor," is equal to the adjusted state general fund increase subject to the  
19 following limitations:

20 (a) It cannot be greater than seven percent or less than zero percent; and

21 (b) It cannot exceed the annual percentage change in the consumer price index for  
22 urban wage earners and clerical workers as computed by the Bureau of Labor  
23 Statistics of the United States Department of Labor for the year before the year  
24 immediately preceding the year of adjustment or ~~three percent, whichever is~~

1                   less four percent, whichever is greater;

2       (3A) "General fund adjustment," beginning with school fiscal year 2014, the difference  
3           between the percentage that would have been used as the index factor for the year  
4           before the year immediately preceding the year of adjustment if the projected state  
5           general fund increase had equaled the actual percentage change in state general fund  
6           revenue for that year and the index factor that was actually used in that year to  
7           calculate the per student allocation;

8       (4) "Per student allocation," for school fiscal year ~~2009~~ 2011 is ~~\$4,664.66~~ \$4,804.60.  
9           Each school fiscal year thereafter, the per student allocation is the previous fiscal  
10          year's per student allocation increased by the index factor plus the general fund  
11          adjustment;

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

- 13           (a) The per student allocation multiplied by the fall enrollment; and
- 14           (b) The small school adjustment, if applicable, multiplied by the fall enrollment;
- 15                   and
- 16           (c) The payment distributed pursuant to § 13-13-80, if applicable;

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

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

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

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

2 (a) The general fund balance percentage as of June 30, 2000; or

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

5 For fiscal year 2008, the maximum allowable percentage is one hundred percent; for  
6 fiscal year 2009, eighty percent; for fiscal year 2010, sixty percent; for fiscal year  
7 2011, forty percent; for fiscal year 2012 and subsequent fiscal years, twenty-five  
8 percent. However, the general fund base percentage can never be less than twenty-  
9 five percent;

10 (10) "Allowable general fund balance," the general fund base percentage multiplied by the  
11 district's general fund expenditures in the previous school fiscal year;

12 (11) "General fund exclusions," revenue a school district has received from the imposition  
13 of the excess tax levy pursuant to § 10-12-43; revenue a school district has received  
14 from gifts, contributions, grants, or donations; revenue a school district has received  
15 under the provisions of §§ 13-6-92 to 13-6-96, inclusive; revenue a school district  
16 has received as compensation for being a sparse school district under the terms of  
17 §§ 13-13-78 and 13-13-79; any revenue a school district has received under the  
18 provisions of the American Recovery and Reinvestment Act of 2009 (P.L. 111-5);  
19 and any revenue in the general fund set aside for a noninsurable judgment.

20 Section 2. That chapter 4-7 be amended by adding thereto a NEW SECTION to read as  
21 follows:

22 The Senate and House of Representatives standing committees on appropriations shall  
23 jointly adopt a statement of estimated revenue for the current fiscal year and for the next fiscal  
24 year. The statement of estimated revenue shall be classified by individual revenue source.

1 General fund revenue shall be further classified as either continuing receipts or one-time  
2 receipts.

3 Section 3. That § 13-37-35.1 be amended to read as follows:

4 13-37-35.1. Terms used in chapter 13-37 mean:

5 (1) "Level one disability," a mild disability;

6 (2) "Level two disability," cognitive disability or emotional disorder;

7 (3) "Level three disability," hearing impairment, deafness, visual impairment, deaf-  
8 blindness, orthopedic impairment, or traumatic brain injury;

9 (4) "Level four disability," autism;

10 (5) "Level five disability," multiple disabilities;

11 (5A) "Level six disability," prolonged assistance;

12 (6) "Index factor," is ~~the annual percentage change in the consumer price index for urban~~  
13 ~~wage earners and clerical workers as computed by the Bureau of Labor Statistics of~~  
14 ~~the United States Department of Labor for the year before the year immediately~~  
15 ~~preceding the year of adjustment or three percent, whichever is less~~ equal to the index  
16 factor calculated pursuant to section 1 of this Act;

17 (6A) "General fund adjustment," is equal to the general fund adjustment calculated  
18 pursuant to section 1 of this Act;

19 (7) "Local effort," shall be calculated for taxes payable in 2011 and shall be the amount  
20 of revenue that could have been generated for the taxes payable in 2010 using a  
21 special education levy of one dollar and twenty cents per one thousand dollars of  
22 valuation increased by the lesser of three percent or the index factor, as defined in  
23 § 10-13-38, plus a percentage increase of value resulting from any improvements or  
24 change in use of real property, annexation, minor boundary changes, and any

1 adjustments in taxation of real property separately classified and subject to statutory  
2 adjustments and reductions under chapters 10-4, 10-6, 10-6A, and 10-6B, except  
3 § 10-6-31.4, only if assessed the same as property of equal value.

4 For taxes payable in 2012, 2013, 2014, and 2015, the total amount of local effort  
5 shall be increased by the lesser of three percent or the index factor, established  
6 pursuant to § 10-13-38 plus a percentage increase of value resulting from any  
7 improvements or change in use of real property, annexation, minor boundary  
8 changes, and any adjustments in taxation of real property separately classified and  
9 subject to statutory adjustments and reductions under chapters 10-4, 10-6, 10-6A, and  
10 10-6B, except § 10-6-31.4, only if assessed the same as property of equal value;

11 (8) "Allocation for a student with a level one disability," for the school fiscal year  
12 beginning July 1, ~~2009~~ 2010, is \$4,057. For each school year thereafter, the allocation  
13 for a student with a level one disability shall be the previous fiscal year's allocation  
14 for such child increased by ~~the lesser of the index factor or three percent~~;

15 (9) "Allocation for a student with a level two disability," for the school fiscal year  
16 beginning July 1, ~~2009~~ 2010, is \$9,471. For each school year thereafter, the allocation  
17 for a student with a level two disability shall be the previous fiscal year's allocation  
18 for such child increased by ~~the lesser of the index factor or three percent~~;

19 (10) "Allocation for a student with a level three disability," for the school fiscal year  
20 beginning July 1, ~~2009~~ 2010, is \$15,220. For each school year thereafter, the  
21 allocation for a student with a level three disability shall be the previous fiscal year's  
22 allocation for such child increased by ~~the lesser of the index factor or three percent~~;

23 (11) "Allocation for a student with a level four disability," for the school fiscal year  
24 beginning July 1, ~~2009~~ 2010, is \$13,164. For each school year thereafter, the

- 1 allocation for a student with a level four disability shall be the previous fiscal year's  
2 allocation for such child increased by ~~the lesser of the index factor or three percent;~~
- 3 (12) "Allocation for a student with a level five disability," for the school fiscal year  
4 beginning July 1, ~~2009~~ 2010, is \$16,539. For each school year thereafter, the  
5 allocation for a student with a level five disability shall be the previous fiscal year's  
6 allocation for such child increased by ~~the lesser of the index factor or three percent;~~
- 7 (12A) "Allocation for a student with a level six disability," for the school fiscal year  
8 beginning July 1, ~~2009~~ 2010, is \$8,438. For each school year thereafter, the allocation  
9 for a student with a level six disability shall be the previous fiscal year's allocation  
10 for such child increased by ~~the lesser of the index factor or three percent;~~
- 11 (13) "Child count," is the number of students in need of special education or special  
12 education and related services according to criteria set forth in rules promulgated  
13 pursuant to §§ 13-37-1.1 and 13-37-46 submitted to the Department of Education in  
14 accordance with rules promulgated pursuant to § 13-37-1.1;
- 15 (14) "Fall enrollment," the number of kindergarten through twelfth grade pupils enrolled  
16 in all schools operated by the school district on the last Friday of September of the  
17 previous school year minus the number of students for whom the district receives  
18 tuition, except any nonresident student who is in the care and custody of a state  
19 agency and is attending a public school and any student for whom tuition is being  
20 paid pursuant to § 13-28-42.1, plus the number of students for whom the district pays  
21 tuition;
- 22 (15) "Nonpublic school," a sectarian organization or entity which is accredited by the  
23 secretary of education for the purpose of instructing children of compulsory school  
24 age. This definition excludes any school that receives a majority of its revenues from

1 public funds;

2 (16) "Nonpublic fall enrollment," until June 30, 2008, the number of children under age  
3 sixteen, and beginning July 1, 2009, the number of children under age eighteen, who  
4 are approved for alternative instruction pursuant to § 13-27-2 on the last Friday of  
5 September of the previous school year plus:

6 (a) For nonpublic schools located within the boundaries of a public school district  
7 with a fall enrollment of six hundred or more on the last Friday of September  
8 of the previous school year, the number of kindergarten through twelfth grade  
9 pupils enrolled on the last Friday of September of the previous regular school  
10 year in all nonpublic schools located within the boundaries of the public  
11 school district;

12 (b) For nonpublic schools located within the boundaries of a public school district  
13 with a fall enrollment of less than six hundred on the last Friday of September  
14 of the previous school year, the number of resident kindergarten through  
15 twelfth grade pupils enrolled on the last Friday of September of the previous  
16 school year in all nonpublic schools located within the State of South Dakota;

17 (17) "Special education fall enrollment," fall enrollment plus nonpublic fall enrollment;

18 (18) "Local need," an amount to be determined as follows:

19 (a) Multiply the special education fall enrollment by 0.1062 and multiply the  
20 result by the allocation for a student with a level one disability;

21 (b) Multiply the number of students having a level two disability as reported on  
22 the child count for the previous school fiscal year by the allocation for a  
23 student with a level two disability;

24 (c) Multiply the number of students having a level three disability as reported on

1 the child count for the previous school fiscal year by the allocation for a  
2 student with a level three disability;

3 (d) Multiply the number of students having a level four disability as reported on  
4 the child count for the previous school fiscal year by the allocation for a  
5 student with a level four disability;

6 (e) Multiply the number of students having a level five disability as reported on  
7 the child count for the previous school fiscal year by the allocation for a  
8 student with a level five disability;

9 (f) Multiply the number of students having a level six disability as reported on the  
10 child count for the previous school fiscal year by the allocation for a student  
11 with a level six disability;

12 (g) Sum the results of (a) through (f);

13 (19) "Effort factor," for taxes payable in 2011, 2012, 2013, 2014, and 2015, the effort  
14 factor is the amount of taxes payable for the year divided by the amount of local  
15 effort as calculated in subdivision (7). The maximum effort factor is 1.0.

16 Section 4. That § 13-37-35.2 be amended to read as follows:

17 13-37-35.2. In fiscal year 2004 and every three years thereafter, the Department of Education  
18 shall recalculate the amounts of the allocations for the disability levels defined in § 13-37-35.1.  
19 The recalculation shall be based on statewide average expenditures as reported to the  
20 Department of Education in school district annual reports by disability for the previous three  
21 school fiscal years. The recalculated allocations for the disability levels shall be prorated so that  
22 the new statewide local need equals the statewide local need that would have resulted if the  
23 disability levels had not been recalculated.