



# State of South Dakota

EIGHTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2011

400S0282

## HOUSE JUDICIARY ENGROSSED NO. **SB 31** - 3/2/2011

Introduced by: The Committee on Judiciary at the request of the Office of the Attorney General

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the expungement of  
2 arrest records.

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

4 Section 1. That § 23A-3-26 be amended to read as follows:

5 23A-3-26. ~~Terms~~ The term, expungement, used in §§ 23A-3-27 to 23A-3-33, inclusive,  
6 ~~mean:~~ means

7 ~~—(1)—~~ "Expungement," the sealing of all arrest records on file ~~within any court, detention~~  
8 ~~or correctional facility, law enforcement agency, criminal justice agency, or~~  
9 ~~Department of Public Safety~~ with the Unified Judicial System or Division of  
10 Criminal Investigation concerning a person's ~~detection,~~ apprehension, arrest,  
11 ~~detention,~~ trial, or disposition of an offense within the criminal justice system that  
12 resulted in no accusatory instrument being filed or an acquittal. The term does not  
13 include records concerning a guilty plea, conviction, or suspended imposition of  
14 sentence. Expungement does not imply the physical destruction of records.



1 Section 2. That § 23A-3-30 be amended to read as follows:

2 23A-3-30. The court may enter an order of expungement if satisfied that the ends of justice  
3 and the best interest of the public as well as the defendant or the arrested person will be served  
4 by the entry of the order. The court may only expunge an arrest record if no accusatory  
5 instrument was filed or there was an acquittal. The court may not expunge any record of a guilty  
6 plea, conviction, or suspended imposition of sentence.

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

9 For the purposes of this chapter, the term, accusatory instrument, includes a summons,  
10 complaint, indictment, information, or a uniform traffic ticket.

11 Section 4. That § 23-6-8.1 be amended to read as follows:

12 23-6-8.1. The director of the Bureau of Criminal Statistics may authorize the destruction of  
13 information and records of:

- 14 (1) Persons who are dead;
- 15 (2) Persons seventy-five years of age or older unless a violation has occurred within the  
16 last ten years;
- 17 (3) Incidents that are no longer considered crimes under the laws of the State of South  
18 Dakota;
- 19 (4) Misdemeanor offenses whose final date of disposition occurred at least ~~ten~~ five years  
20 prior to authorized destruction date.

21 However, the provisions of subdivision (4) of this Act do not apply to any misdemeanor  
22 driving under the influence offenses unless the final date of disposition occurred at least ten  
23 years prior to the authorized destruction date.

# State of South Dakota

EIGHTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2011

400S0280

HOUSE ENGROSSED NO. **SB 33** - 3/7/2011

Introduced by: The Committee on Judiciary at the request of the Office of the Attorney General

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the 24/7 sobriety  
2 program, to authorize the collection of certain fees, and to authorize the use of ignition  
3 interlock devices.

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

5 Section 1. That § 32-23-23 be amended to read as follows:

6 32-23-23. Any driving permit issued by the court to any person, who has been convicted of  
7 a violation of § 32-23-1 ~~within the last ten years or any driving permit issued pursuant to § 32-~~  
8 ~~23-2, if that person had 0.17 percent or more by weight of alcohol in that person's blood,~~ shall  
9 be conditioned on the person's total abstinence from the use of alcohol, the person's participation  
10 in the 24/7 sobriety program created by §§ 1-11-17 to 1-11-25, inclusive, in those areas counties  
11 where 24/7 sobriety testing is available, ~~and~~ the payment of associated costs and expenses and  
12 the person meeting one of the following conditions:

13 (1) The person had a previous conviction for a violation of § 32-23-1 within the last ten  
14 years; or

15 (2) That the person had a 0.17 percent or more by weight of alcohol in that person's



1           blood at the time the violation occurred.

2           The court shall immediately revoke the permit upon a showing of proof by a preponderance  
3 of the evidence that the person has violated this condition.

4           Section 2. That § 1-11-25 be amended to read as follows:

5           1-11-25. Any fees collected under §§ 1-11-17 to 1-11-25, inclusive, shall be distributed as  
6 follows:

7           (1) Any daily user fee collected in the administration of twice a day testing, drug patch  
8 testing, or urinalysis testing under the 24/7 sobriety program shall be collected by the  
9 sheriff, or ~~the~~ an entity designated by the sheriff, and deposited with the county  
10 treasurer of the proper county, the proceeds of which shall be applied and used only  
11 to defray the recurring costs of the 24/7 sobriety program including maintaining  
12 equipment, funding support services and ensuring compliance;

13           (2) Any installation and deactivation fee collected in the administration of electronic  
14 alcohol monitoring device testing shall be collected by the sheriff, or ~~the~~ an entity  
15 designated by the sheriff, and deposited with the county treasurer of the proper  
16 county, the proceeds of which shall be applied and used only to defray the recurring  
17 costs of the 24/7 sobriety program including maintaining equipment, funding support  
18 services, and ensuring compliance;

19           (3) Any daily user fee collected in the administration of electronic alcohol monitoring  
20 device testing shall be deposited in the state 24/7 sobriety fund created by § 1-11-18.  
21 A participant shall pay all electronic alcohol monitoring device testing user fees to  
22 the clerk of courts in the county where the participant is enrolled in the program if  
23 the test is ordered by a court. If the test is directed by the Board of Pardons and  
24 Parole, the Department of Corrections, the Department of Public Safety, or a parole

1 agent, the fees shall be paid to the directing entity as provided in the written  
2 directive; and

3 (4) The Department of Corrections or the Unified Judicial System may collect an  
4 installation fee and a deactivation fee in their administration of electronic alcohol  
5 monitoring device testing. These fees shall be deposited into the state general fund;

6 (5) Any enrollment and monitoring fee collected in the administration of ignition  
7 interlock device testing shall be collected by the sheriff, or an entity designated by  
8 the sheriff, and deposited with the county treasurer of the proper county, the proceeds  
9 of which shall be applied and used only to defray the recurring costs of the 24/7  
10 sobriety program including maintaining equipment, funding support services, and  
11 ensuring compliance; and

12 (6) Any participation fee collected in the administration of testing under the 24/7 sobriety  
13 program to cover program administration costs incurred by the Office of Attorney  
14 General shall be collected by the sheriff, or an entity designated by the sheriff, and  
15 deposited in the state 24/7 sobriety fund created by § 1-11-18.

16 Section 3. That § 1-11-18 be amended to read as follows:

17 1-11-18. There is hereby established in the state treasury the 24/7 sobriety fund. The fund  
18 shall be maintained and administered by the Office of the Attorney General to defray costs of  
19 operating the 24/7 sobriety program, including purchasing and maintaining equipment and  
20 funding support services. The Office of the Attorney General may accept for deposit in the fund  
21 money from donations, gifts, grants, participation fees, and user fees or payments. Expenditures  
22 from the fund shall be budgeted through the normal budget process. Unexpended funds and  
23 interest shall remain in the fund.

24 Section 4. That § 1-11-24 be amended to read as follows:

1 1-11-24. The Office of the Attorney General, pursuant to chapter 1-26, may promulgate rules  
2 for the administration of §§ 1-11-17 to 1-11-25, inclusive, to:

- 3 (1) Regulate the nature, method, and manner of testing;
- 4 (2) Provide for procedures and apparatus for testing including electronic monitoring  
5 devices and ignition interlock devices; and
- 6 (3) ~~Set participation and user fees; however, user fees for twice a day testing shall may~~  
7 ~~not be less than one dollar per test; and~~
- 8 ~~(4) Require the submission of reports and information by law enforcement agencies~~  
9 ~~within this state.~~

10 Section 5. That chapter 1-11 be amended by adding thereto a NEW SECTION to read as  
11 follows:

12 A participant submitting to twice-a-day testing shall pay a user fee of one dollar to three  
13 dollars, inclusive, for each test.

14 Section 6. That chapter 1-11 be amended by adding thereto a NEW SECTION to read as  
15 follows:

16 A participant submitting to urinalysis testing shall pay a user fee of five dollars to ten  
17 dollars, inclusive, for each test. If further analysis of the sample is required or requested, the  
18 participant is responsible for payment of the actual costs incurred by the participating agency  
19 for the analysis of the sample.

20 Section 7. That chapter 1-11 be amended by adding thereto a NEW SECTION to read as  
21 follows:

22 A participant submitting to wear a drug patch shall pay a user fee of forty to fifty dollars,  
23 inclusive, for each drug patch attached.

24 Section 8. That chapter 1-11 be amended by adding thereto a NEW SECTION to read as

1 follows:

2 A participant submitting to the wearing of the electronic alcohol monitoring device shall pay  
3 a user fee of five dollars to ten dollars, inclusive, for each day.

4 In addition, the participant shall pay an installation fee and a deactivation fee, each in the  
5 amount of thirty to fifty dollars, inclusive.

6 The participant is also financially responsible for the actual replacement cost for loss or  
7 breakage of the electronic alcohol monitoring device and all associated equipment provided to  
8 the participant that is necessary to conduct electronic alcohol monitoring device testing.

9 Section 9. That chapter 1-11 be amended by adding thereto a NEW SECTION to read as  
10 follows:

11 A participant submitting to the installation of an ignition interlock device shall pay all costs  
12 and expenses associated with the installation and operation of the ignition interlock device  
13 directly to the authorized vendor pursuant to a contract between the vendor and participant.

14 In addition, the participant shall pay an enrollment fee in the amount of thirty to fifty dollars,  
15 inclusive, at the time of enrollment and monitoring fees in the amount of ten to twenty dollars,  
16 inclusive, at intervals to be set by the attorney general.

17 The participant is also financially responsible for the actual replacement cost for loss or  
18 breakage of the ignition interlock device and all associated equipment provided to the  
19 participant that is necessary to conduct ignition interlock device testing.

20 Section 10. That chapter 1-11 be amended by adding thereto a NEW SECTION to read as  
21 follows:

22 A participant shall pay all electronic alcohol monitoring device fees in advance or  
23 contemporaneously with the fee becoming due. All other applicable fees shall be paid at or in  
24 advance of the time for the test.

1 Section 11. That chapter 1-11 be amended by adding thereto a NEW SECTION to read as  
2 follows:

3 Each participant in the 24/7 sobriety program shall pay a participation fee of one to three  
4 dollars, inclusive, per day.

5 Section 12. That chapter 1-11 be amended by adding thereto a NEW SECTION to read as  
6 follows:

7 The attorney general shall meet annually with participating agencies to review fees and  
8 collection procedures for the 24/7 sobriety program. The attorney general shall set and give  
9 notice of the time and place for the meeting. The attorney general shall set, by rules promulgated  
10 pursuant to chapter 1-26, the annual fees within the range established by this chapter.

11 Section 13. That ARSD 2:06:03:01 be repealed.

12 ~~— 2:06:03:01. Twice-a-day testing. A participant submitting to twice-a-day testing shall pay~~  
13 ~~a fee of one dollar for each test.~~

14 Section 14. That ARSD 2:06:03:02 be repealed.

15 ~~— 2:06:03:02. Urinalysis. A participant submitting to urinalysis testing shall pay a fee of five~~  
16 ~~dollars for each test. If further analysis of the sample is required or requested, the participant is~~  
17 ~~responsible for payment of the actual costs incurred by the participating agency for the analysis~~  
18 ~~of the sample.~~

19 Section 15. That ARSD 2:06:03:03 be repealed.

20 ~~— 2:06:03:03. Drug patch. A participant submitting to wear a drug patch shall pay a fee of \$40~~  
21 ~~for each drug patch attached.~~

22 Section 16. That ARSD 2:06:03:04 be repealed.

23 ~~— 2:06:03:04. Electronic alcohol monitoring device. A participant submitting to the wearing~~  
24 ~~of the electronic alcohol monitoring device shall pay a fee of six dollars for each day, to be paid~~

1 in one of the following ways:

2 ~~— (1) Weekly -- \$42;~~

3 ~~— (2) Bi-weekly -- \$84;~~

4 ~~— (3) Every four weeks -- \$168.~~

5 ~~— In addition, the participant shall pay an installation fee and a deactivation fee, each in the~~  
6 ~~amount of \$30.~~

7 ~~— The participant is also financially responsible for the actual replacement cost for loss or~~  
8 ~~breakage of the electronic alcohol monitoring device and all associated equipment provided to~~  
9 ~~the participant that is necessary to conduct electronic alcohol monitoring device testing.~~

10 Section 17. That ARSD 2:06:03:05 be repealed.

11 ~~— 2:06:03:05. Collection and remittance of fees. Except for electronic alcohol monitoring~~  
12 ~~device testing daily fees and installation and deactivation fees collected by the Department of~~  
13 ~~Corrections and Unified Judicial System, a participant shall pay all applicable fees to the~~  
14 ~~participating agency conducting the test. A participant shall pay all electronic alcohol~~  
15 ~~monitoring device testing daily fees to the clerk of courts in the county where the participant is~~  
16 ~~enrolled in the program if the test is ordered by a court. If the test is directed by the Board of~~  
17 ~~Pardons and Parole, the Department of Corrections, the Department of Public Safety, or a parole~~  
18 ~~agent, the fees shall be paid to the directing entity as provided in the written directive.~~

19 ~~— A participant shall pay all electronic alcohol monitoring device fees in advance or~~  
20 ~~contemporaneously with the fee becoming due. All other applicable fees shall be paid at or in~~  
21 ~~advance of the time for the test.~~

22 Section 18. That ARSD 2:06:03:06 be repealed.

23 ~~— 2:06:03:06. Annual review of fees. The Attorney General shall meet annually with~~  
24 ~~participating agencies to review fees and collection procedures for the 24/7 Sobriety Program.~~

1 ~~The Attorney General shall set and give notice of the time and place for the meeting.~~

# State of South Dakota

EIGHTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2011

400S0278

## HOUSE ENGROSSED NO. **SB 35** - 3/7/2011

Introduced by: The Committee on Judiciary at the request of the Office of the Attorney General

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the crime of taking  
2 or disseminating pictures without consent and to provide for a felony penalty under certain  
3 circumstances.

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

5 Section 1. That § 22-21-4 be amended to read as follows:

6 22-21-4. No person may use a ~~concealed camcorder, motion picture camera, or photographic~~  
7 ~~camera of any type, to secretly videotape, film, photograph, or record by electronic means, any~~  
8 ~~other person without clothing, or any other person under or through the clothing being worn by~~  
9 ~~that other person, for the purpose of viewing the body of, or the undergarments worn by, that~~  
10 ~~other person, without the consent or knowledge of that other person, with the intent to arouse,~~  
11 ~~appeal to, or gratify the lust, passions, or sexual desires of that person~~ or disseminate any visual  
12 recording or photographic device to photograph or visually record any other person without  
13 clothing or under or through the clothing, for the purpose of viewing the body of, or the  
14 undergarments worn by, that other person, without the consent or knowledge of that other  
15 person, with the intent to self-gratify, to harass, or embarrass and invade the privacy of that



1 other person, under circumstances in which the other person has a reasonable expectation of  
2 privacy. A violation of this section is a Class 1 misdemeanor. However, a violation of this  
3 section is a Class 6 felony if the victim is seventeen years of age or younger and the perpetrator  
4 is at least twenty-one years old.

# State of South Dakota

EIGHTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2011

992S0047

## SENATE EDUCATION ENGROSSED NO. **SB 65** - 2/3/2011

**This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.**

Introduced by: Senators Kraus, Bradford, Garnos, Gray, Rave, and Rhoden and Representatives Wick, Bolin, Gosch, Hickey, Hunt, Kopp, Liss, Moser, Nelson (Stace), Novstrup (David), Olson (Betty), Sly, Tulson, and Verchio

1 FOR AN ACT ENTITLED, An Act to allow nonpublic schools accredited by certain accrediting  
2 agencies other than the Department of Education to become members of the South Dakota  
3 High School Activities Association.

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

5 Section 1. That § 13-36-4 be amended to read as follows:

6 13-36-4. The school board of a public ~~or the governing body of a nonpublic~~ school,  
7 approved and accredited by the secretary of the Department of Education, may delegate, on a  
8 year to year basis, the control, supervision, and regulation of any high school interscholastic  
9 activities to any association which is voluntary and nonprofit if membership in such association  
10 is open to all high schools approved and accredited ~~by the secretary of the Department of~~  
11 Education pursuant to this section, including any school that allows participation by students  
12 receiving alternative instruction as set forth in § 13-27-3, pursuant to the provisions of this title,  
13 and if the constitution, bylaws, and rules of the association are subject to ratification by the



1 school boards of the member public school districts and the governing boards of the member  
2 nonpublic schools and include a provision for a proper review procedure and review board.

3 The governing body of a nonpublic school, approved and accredited by the secretary of the  
4 Department of Education, or the North Central Association Commission on Accreditation and  
5 School Improvement (NCA CASI), or the Association of Christian Schools International  
6 (ACSI), or the Association of Classical and Christian Schools (ACCS), or Christian Schools  
7 International (CSI), or National Lutheran School Accreditation (NLSA), or Wisconsin  
8 Evangelical Lutheran Synod School Accreditation, may also delegate, on a year to year basis,  
9 the control, supervision, and regulation of any high school interscholastic activities to any  
10 association which is voluntary and nonprofit if membership in such association is open to all  
11 high schools approved and accredited pursuant to this section, including any school that allows  
12 participation by students receiving alternative instruction as set forth in § 13-27-3, pursuant to  
13 the provisions of this title, and if the constitution, bylaws, and rules of the association are  
14 subject to ratification by the school boards of the member public school districts and the  
15 governing boards of the member nonpublic schools and include a provision for a proper review  
16 procedure and review board.

17 Any association which complies with this section may exercise the control, supervision, and  
18 regulation of interscholastic activities, including interscholastic athletic events of member  
19 schools. Such association may promulgate reasonable uniform rules, to make decisions and to  
20 provide and enforce reasonable penalties for the violation of such rules.

# State of South Dakota

EIGHTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2011

703S0311

## HOUSE APPROPRIATIONS

### ENGROSSED NO. **SB 124** - 3/2/2011

**This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.**

Introduced by: Senators Tidemann, Begalka, Buhl, Frerichs, Frysliie, Garnos, Hansen (Tom), Hundstad, Hunhoff (Jean), Krebs, Maher, Novstrup (Al), Putnam, Rave, Rhoden, and Vehle and Representatives Juhnke, Abdallah, Brunner, Dennert, Hoffman, Hunhoff (Bernie), Kirschman, Kloucek, Lucas, Perry, Sigdestad, Street, Van Gerpen, Vanneman, and Wismer

1 FOR AN ACT ENTITLED, An Act to authorize the Bureau of Administration to construct a  
2 maintenance shop in Pierre, to make an appropriation therefor, and to declare an emergency.

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

4 Section 1. The Bureau of Administration may contract for the construction, completion,  
5 furnishing, equipping, and maintaining of, including heating, air conditioning, plumbing, water,  
6 sewer, electric facilities, sidewalks, parking, landscaping, architectural and engineering services,  
7 and such other services or actions as may be required to construct a maintenance shop not to  
8 exceed four thousand square feet, to be located on the Capitol complex or in the immediate  
9 vicinity, in Pierre, South Dakota.

10 Section 2. There is hereby transferred from the public buildings fund established in § 5-15-  
11 29.2 the balance of the fund on July 1, 2011, to the state-wide maintenance and repair fund  
12 established in § 5-14-30 to construct the facilities described in section 1 of this Act.



1 Section 3. There is hereby appropriated the sum of five hundred thousand dollars  
2 (\$500,000), or so much thereof as may be necessary, in other fund expenditure authority to the  
3 Bureau of Administration to construct the facilities described in section 1 of this Act.

4 Section 4. The design and construction of the addition authorized in this Act shall be under  
5 the general supervision of the Bureau of Administration as provided in chapter 5-14. The  
6 commissioner of the Bureau of Administration shall approve vouchers and the state auditor shall  
7 draw warrants to pay expenditures authorized by this Act.

8 Section 5. For the purposes of this Act, the term, gross square footage, means the sum of all  
9 areas on all floors of a building included within the outside faces of the building's exterior walls,  
10 including floor penetration areas, however insignificant, for circulation and shaft areas that  
11 connect one floor to another as computed by physically measuring or scaling measurements  
12 from the outside faces of exterior walls, disregarding cornices, pilaster, buttresses, etc., which  
13 extend beyond the wall faces. The term includes excavated basement area; mezzanines,  
14 penthouses, and attics; garages; multiple floor parking structures; enclosed porches, inner or  
15 outer balconies whether walled or not, if the balconies are utilized for operational functions; and  
16 corridors whether walled or not, if the corridors are within the outside face lines of the building,  
17 to the extent of the roof drip line and the footprints of stairways, elevator shafts, and ducts on  
18 each floor through which the corridors pass. The term does not include open areas such as  
19 unenclosed parking lots, playing fields, courts, and light wells, clear span areas not exceeding  
20 three feet in height, or portions of upper floors eliminated by rooms or lobbies that rise above  
21 single-floor height.

22 Section 6. Whereas, this Act is necessary for the support of the state government and its  
23 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in  
24 full force and effect from and after its passage and approval.

# State of South Dakota

EIGHTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2011

824S0572

## HOUSE APPROPRIATIONS

### ENGROSSED NO. **SB 133** - 3/2/2011

**This bill has been extensively amended (houghoused) and may no longer be consistent with the original intention of the sponsor.**

Introduced by: Senator Rave and Representative Cronin

1 FOR AN ACT ENTITLED, An Act to revise certain provisions related to distribution of funds  
2 to sparse school districts.

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

4 Section 1. That § 13-13-79 be amended to read as follows:

5 13-13-79. At the same time that foundation program state aid is distributed to school  
6 districts pursuant to §§ 13-13-10.1 to 13-13-41, inclusive, the secretary of the Department of  
7 Education shall distribute funds to sparse school districts by multiplying the result of the  
8 calculation in either subdivision 13-13-78(2) or subdivision 13-13-78(3) by seventy-five percent  
9 of the per student allocation as defined in § 13-13-10.1. However, no sparse school district may  
10 receive a sparsity benefit in any year that exceeds one hundred twenty-three thousand seven  
11 hundred fifty dollars. If the appropriation is insufficient to fully fund all sparse school districts  
12 as per the calculation in either subdivision 13-13-78(2) or subdivision 13-13-78(3), each eligible  
13 district shall receive a prorata share of the total appropriated amount.



# State of South Dakota

EIGHTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2011

850S0640

SENATE HEALTH AND HUMAN SERVICES

ENGROSSED NO. **SB 140** - 2/16/2011

**This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.**

Introduced by: Senators Hunhoff (Jean), Hundstad, and Kraus and Representative Boomgarden

1 FOR AN ACT ENTITLED, An Act to provide for access critical nursing facilities to ensure  
2 access to health care within a reasonable distance.

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

4 Section 1. The Department of Social Services shall designate access critical nursing facilities  
5 annually as part of the medicaid rate setting process. The department shall designate the access  
6 critical nursing facilities according to the following criteria:

7 (1) No other nursing facility is located within twenty miles;

8 (2) The nursing facility is located in the largest municipality within thirty-five miles,  
9 unless the next closest nursing facility is located more than fifty miles from any other  
10 nursing facility;

11 (3) The nursing facility provides skilled nursing facility services;

12 (4) The nursing facility is integrated with other health care services, either through  
13 affiliation with other services or through formal agreement;

14 (5) The projected nursing facility demand within the county in which the facility is



1 located is less than sixty beds in 2015; and

2 (6) The nursing facility agrees to relinquish any excess moratorium beds that are

3 authorized pursuant to § 34-12-35.4.

# State of South Dakota

EIGHTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2011

193S0087

SENATE ENGROSSED NO. **SB 149** - 2/23/2011

Introduced by: Senators Schlekeway, Begalka, Cutler, Garnos, Gray, Heineman, Hunhoff (Jean), Johnston, Kraus, Krebs, Lederman, Nygaard, Rave, Sutton, Tidemann, and Tieszen and Representatives Wink, Abdallah, Blake, Bolin, Gosch, Hoffman, Jones, Lucas, Lust, Magstadt, Munsterman, Sigdestad, Sly, Steele, Stricherz, Tornow, Tulson, Van Gerpen, and Wick

1 FOR AN ACT ENTITLED, An Act to establish policies for youth athletes with concussions  
2 resulting from participation in youth athletic activities.

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

4 Section 1. That chapter 13-36 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 The South Dakota High School Activities Association, in concert with the Department of  
7 Education, shall develop guidelines to inform and educate member schools, coaches, athletes,  
8 and the parents or guardians of athletes, of the nature and risk of concussion, including  
9 continuing to play after sustaining a concussion. A concussion information sheet shall be signed  
10 and returned by any athlete who seeks to compete in activities sanctioned by the South Dakota  
11 High School Activities Association and the athlete's parent or guardian prior to the athlete's  
12 participation in any youth athletic activities sanctioned by the South Dakota High School  
13 Activities Association. A signed information sheet is effective for one academic year.



1 The guidelines and information sheet shall include protocols and content consistent with  
2 current medical knowledge for informing and educating each member school, coach, and athlete  
3 participating in athletic activities sanctioned by the South Dakota High School Activities  
4 Association, and the athlete's parent or guardian as to:

- 5 (1) The nature and risk of concussions associated with athletic activity;
- 6 (2) The signs, symptoms, and behaviors consistent with a concussion;
- 7 (3) The need to alert appropriate medical professionals for urgent diagnosis or treatment  
8 if an athlete is suspected to have received a concussion; and
- 9 (4) The need to follow proper medical direction and protocols for treatment and return  
10 to play after an athlete sustains a concussion.

11 Section 2. That chapter 13-36 be amended by adding thereto a NEW SECTION to read as  
12 follows:

13 The South Dakota High School Activities Association and the South Dakota Department  
14 of Education shall develop a training program consistent with section 1 of this Act. Each coach  
15 participating in athletic activities sanctioned by the South Dakota High School Activities  
16 Association shall complete the training program each academic year.

17 Section 3. That chapter 13-36 be amended by adding thereto a NEW SECTION to read as  
18 follows:

19 An athlete shall be removed from participation in any athletic activity sanctioned by the  
20 South Dakota High School Activities Association at the time the athlete:

- 21 (1) Exhibits signs, symptoms, or behaviors consistent with a concussion; or
- 22 (2) Is suspected of sustaining a concussion.

23 Section 4. That chapter 13-36 be amended by adding thereto a NEW SECTION to read as  
24 follows:

1 No athlete who has been removed from participation in an athletic activity sanctioned by the  
2 South Dakota High School Activities Association may return to athletic activities until the  
3 athlete:

- 4 (1) No longer exhibits signs, symptoms, or behavior consistent with a concussion; and
- 5 (2) Receives an evaluation by a licensed health care provider trained in the evaluation  
6 and management of concussions and receives written clearance to return to play from  
7 such health care provider.

8 Section 5. For the purposes of this Act, a licensed health care provider is a person who is:

- 9 (1) Registered, certified, licensed, or otherwise recognized in law by the State of South  
10 Dakota to provide medical treatment; and
- 11 (2) Trained and experienced in the evaluation, management, and care of concussions.

12 Section 6. That chapter 13-36 be amended by adding thereto a NEW SECTION to read as  
13 follows:

14 This Act does not create any liability for, or create any cause of legal action against, a  
15 school, a school district, or any officer or employee of a school or school district.

# State of South Dakota

EIGHTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2011

256S0517

## HOUSE JUDICIARY ENGROSSED NO. **SB 173** 2/28/2011

Introduced by: Senators Cutler, Adelstein, Garnos, Holien, Hunhoff (Jean), Kraus, Olson (Russell), Peters, and Schlekeway and Representatives Willadsen, Abdallah, Lust, Magstadt, Rausch, Russell, and Turbiville

1 FOR AN ACT ENTITLED, An Act to allow specific details of alleged sex crimes against  
2 minors be suppressed under certain conditions.

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

4 Section 1. That § 23A-6-22.1 be amended to read as follows:

5 23A-6-22.1. Notwithstanding the provisions of § 23A-6-22, upon the request of any minor  
6 victim ~~who is a minor~~ or the minor victim's parent or guardian in a prosecution for rape, incest,  
7 or sexual contact, the court shall order that the name of the minor and the specific details of the  
8 alleged acts be suppressed if the trial court finds a compelling interest after consideration of the  
9 following factors: the minor victim's age, psychological maturity and understanding, the nature  
10 of the crime, the desires of the victim, and the interests of the parents and relatives.

11 Section 2. That § 23A-35-4.1 be amended to read as follows:

12 23A-35-4.1. If not filed earlier, any affidavit in support of a search warrant shall be filed  
13 with the court when the warrant and inventory are returned. Upon filing the warrant and  
14 supporting documents, the law enforcement officer may apply by separate affidavit to the court



1 to seal the supporting affidavit from public inspection or disclosure. The court, for reasonable  
2 cause shown, may order the contents of the affidavit sealed from public inspection or disclosure  
3 but may not prohibit disclosure that a supporting affidavit was filed, the contents of the warrant,  
4 the return of the warrant, nor the inventory. The court may order that the supporting affidavit  
5 be sealed until the investigation is terminated or an indictment or information is filed. In cases  
6 of alleged rape, incest, or sexual contact, if the victim is a minor, the court may limit access to  
7 an affidavit pursuant to § 23A-6-22.1. However, a court order sealing a supporting affidavit may  
8 not affect the right of any defendant to discover the contents of the affidavit under chapter 23A-  
9 13.

10 Section 3. That § 23A-2-2 be amended to read as follows:

11 23A-2-2. If it appears from a complaint, or from an affidavit or affidavits filed with a  
12 complaint, that there is probable cause to believe that an offense has been committed and that  
13 a particular person has committed it, a warrant for the arrest of that person, if requested by the  
14 prosecuting attorney, shall be issued to any officer authorized by law to execute it. If  
15 circumstances make it reasonable to do so in the absence of a written affidavit, an arrest warrant  
16 may be issued upon sworn oral testimony of a person who is not in the physical presence of a  
17 committing magistrate if the committing magistrate is satisfied that probable cause exists for  
18 the issuance of the warrant. The sworn oral testimony may be communicated to the magistrate  
19 by telephone or other appropriate means and shall be recorded and transcribed. After  
20 transcription the statement shall be certified by the magistrate and filed with the court. This  
21 statement shall be deemed to be an affidavit and complaint for purposes of this section. In cases  
22 of alleged rape, incest, or sexual contact, if the victim is a minor, the court may limit access to  
23 the affidavit pursuant to § 23A-6-22.1. Upon the request of the prosecuting attorney, a summons  
24 instead of a warrant shall be used. More than one warrant or summons may be issued on the

- 1 same complaint. If a defendant fails to appear in response to a summons, a warrant shall be
- 2 issued.

# State of South Dakota

EIGHTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2011

853S0627

## HOUSE ENGROSSED NO. **SB 176** - 3/7/2011

Introduced by: Senators Cutler, Adelstein, Buhl, Holien, Kraus, Olson (Russell), Peters, Putnam, Rhoden, Schlekeway, and Sutton and Representatives Moser, Abdallah, Conzet, Deelstra, Fargen, Gosch, Haggar, Hansen (Jon), Hickey, Hubbel, Liss, Lust, Magstadt, Nelson (Stace), Novstrup (David), Rozum, Sly, Steele, Street, Wick, and Willadsen

1 FOR AN ACT ENTITLED, An Act to provide for the crime of human trafficking, to establish  
2 the elements and degrees of the crime, and to provide penalties for the violation thereof.

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

4 Section 1. No person may recruit, harbor, transport, provide, or obtain, by any means,  
5 another person knowing that force, fraud, or coercion will be used to cause the person to engage  
6 in prostitution, forced labor, or involuntary servitude. Nor may any person benefit financially  
7 or by receiving anything of value from participation in a venture that has engaged in acts set  
8 forth in this section. Any violation of this section constitutes the crime of human trafficking.

9 Section 2. If the acts or the venture set forth in section 1 of this Act:

- 10 (1) Involve committing or attempting to commit kidnaping;  
11 (2) Involve a victim under the age of sixteen years;  
12 (3) Involve prostitution or procurement for prostitution; or  
13 (4) Result in the death of a victim;



1 any person guilty has committed human trafficking in the first degree, which is a Class 2 felony.

2 Section 3. A person is guilty of human trafficking in the second degree if that person:

3 (1) Recruits, harbors, transports, provides, or obtains, by any means, another person  
4 knowing that force, fraud, or coercion will be used to cause the person to engage in  
5 prostitution, forced labor, or involuntary servitude; or

6 (2) Benefits financially or by receiving anything of value from participation in a venture  
7 that has engaged in acts set forth in this section.

8 Human trafficking in the second degree is a Class 4 felony.

# State of South Dakota

EIGHTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2011

400S0652

## HOUSE APPROPRIATIONS ENGROSSED NO. **SB 185** - 2/28/2011

Introduced by: The Committee on Appropriations at the request of the Office of the  
Governor

1 FOR AN ACT ENTITLED, An Act to revise and provide for the adjustment of the per student  
2 allocation for the state aid to general education formula.

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  
13 Services, the Unified Judicial System, the Department of Corrections, or other state  
14 agencies and are attending a public school may be included in the average daily



1 membership of the receiving district when enrolled in the receiving district. When  
2 counting a student who meets these criteria in its general enrollment average daily  
3 membership, the receiving district may begin the enrollment on the first day of  
4 attendance. The district of residence prior to the custodial transfer may not include  
5 students who meet these criteria in its general enrollment average daily membership  
6 after the student ceases to attend school in the resident district;

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

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

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

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

15 (2A) "Fall enrollment," the number of kindergarten through twelfth grade students enrolled  
16 in all schools operated by the school district on the last Friday of September of the  
17 current school year minus the number of students for whom the district receives  
18 tuition, except nonresident students who are in the care and custody of a state agency  
19 and are attending a public school and students for whom tuition is being paid  
20 pursuant to § 13-28-42.1, plus the number of students for whom the district pays  
21 tuition. When computing state aid to education for a school district under the  
22 foundation program pursuant to § 13-13-73, the secretary of the Department of  
23 Education shall use either the school district's fall enrollment or the average of the  
24 school district's fall enrollment from the previous two years, whichever is higher;

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

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

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

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

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

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

15 (4) "Per student allocation," for school fiscal year ~~2011~~ 2012 is ~~\$4,804.60~~ \$4,324.14.  
16 Each school fiscal year thereafter, the per student allocation is the previous fiscal  
17 year's per student allocation increased by the index factor;

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

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

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

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

23 (7) "General fund balance," the unreserved fund balance of the general fund, less general  
24 fund exclusions plus, beginning with transfers made in fiscal year 2001, any transfers

1 out of the general fund for the previous school fiscal year;

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

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

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

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

9 For fiscal year 2008, the maximum allowable percentage is one hundred percent; for  
10 fiscal year 2009, eighty percent; for fiscal year 2010, sixty percent; for fiscal years  
11 2011 to 2014, inclusive, forty percent for each fiscal year; for fiscal year 2015 and  
12 subsequent fiscal years, twenty-five percent. However, the general fund base  
13 percentage may always be at least twenty-five percent;

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

16 (11) "General fund exclusions," revenue a school district has received from the imposition  
17 of the excess tax levy pursuant to § 10-12-43; revenue a school district has received  
18 from gifts, contributions, grants, or donations; revenue a school district has received  
19 under the provisions of §§ 13-6-92 to 13-6-96, inclusive; revenue a school district  
20 has received as compensation for being a sparse school district under the terms of  
21 §§ 13-13-78 and 13-13-79; any revenue a school district has received under the  
22 provisions of the American Recovery and Reinvestment Act of 2009 (P.L. 111-5);  
23 and any revenue in the general fund set aside for a noninsurable judgment.

24 Section 2. That § 13-13-72.1 be amended to read as follows:

1 13-13-72.1. Any adjustments in the levies specified in § 10-12-42 made pursuant to §§ 13-  
2 13-71 and 13-13-72 shall be based on maintaining the relationship between statewide local  
3 effort as a percentage of statewide local need in the fiscal year succeeding the fiscal year in  
4 which the adjustment is made. However, for fiscal year 2013 and each year thereafter, if the  
5 levies specified in § 10-12-42 are not adjusted to maintain this relationship, the per student  
6 allocation as defined in subdivision 13-13-10.1(4) shall be reduced to maintain the relationship  
7 between statewide local effort as a percentage of statewide local need. Any adjustment to the  
8 levy for agricultural property shall be based upon the change in the statewide agricultural  
9 taxable valuation and the reclassification of agricultural property to another property  
10 classification. Any adjustment to the levies for nonagricultural property and owner-occupied  
11 single-family dwellings shall be based upon the change in the statewide nonagricultural property  
12 and owner-occupied single-family dwellings taxable valuations. However, if any new project  
13 with a total taxable valuation of one hundred fifty million dollars or more is constructed, the  
14 levies shall be proportionately decreased for agricultural property, nonagricultural property, and  
15 owner-occupied single-family dwellings. In addition to the adjustments in the levies provided  
16 by this section, the levies shall also be annually adjusted as necessary to reduce the portion of  
17 local need paid by local effort by an amount equal to nine million dollars from those funds  
18 transferred into the property tax reduction fund pursuant to § 10-50-52 subsequent to July 1,  
19 2007. In addition to the adjustments in the levies provided by this section, the levies for  
20 nonagricultural property and owner-occupied single-family dwellings shall also be adjusted as  
21 necessary to account for the additional increase in the total assessed value for nonagricultural  
22 property and owner-occupied single-family dwellings pursuant to the phasing out and repeal of  
23 the provisions provided in § 10-6-74.

# State of South Dakota

EIGHTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2011

400S0657

SENATE ENGROSSED NO. **SB 188** - 2/22/2011

Introduced by: The Committee on Appropriations at the request of the Office of the  
Governor

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the eligibility of  
2 National Guard members for certain graduate tuition reductions.

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

4 Section 1. That § 33-6-5.1 be amended to read as follows:

5 33-6-5.1. Any member of the National Guard of the State of South Dakota is, upon  
6 compliance with all the requirements for admission and subject to the provisions of § 33-6-7,  
7 entitled to a benefit as prescribed by §§ 33-6-5.1 and 33-6-5.3. Any member of the National  
8 Guard of the State of South Dakota who is ~~enrolled in~~ accepted into a program, before  
9 September 1, 2011, leading toward a graduate degree in any state educational institution under  
10 the control and management of the Board of Regents, including institutions or courses not  
11 subsidized by the general fund, is entitled to a benefit of fifty percent of the in-state resident  
12 graduate tuition to be paid to the institution by the Department of Military and Veterans Affairs.  
13 The benefit provided by §§ 33-6-5.1 and 33-6-5.2 may not exceed thirty-two credit hours toward  
14 a graduate degree.

15 Section 2. That § 33-6-5.3 be amended to read as follows:



1        33-6-5.3. Notwithstanding the provisions of § 13-55-23, eligible national guard members  
2 ~~enrolled~~ accepted in graduate courses, before September 1, 2011, under the control and  
3 management of the Board of Regents not subsidized by the general fund are entitled to a benefit  
4 of fifty percent of the in-state resident tuition to be paid to the institution by the Department of  
5 Military and Veterans Affairs.

# State of South Dakota

EIGHTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2011

400S0667

## SENATE APPROPRIATIONS ENGROSSED NO. **SB 190** - 2/22/2011

Introduced by: The Committee on Appropriations at the request of the Office of the  
Governor

1 FOR AN ACT ENTITLED, An Act to revise the General Appropriations Act for fiscal year  
2 2011.

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

4 Section 1. That section 2 of chapter 25 of the 2010 Session Laws be amended to read as  
5 follows:

6 DEPARTMENT OF EXECUTIVE MANAGEMENT

7 (1) Office of the Governor

8 Personal Services, Federal Funds, delete "\$206,402" and insert "\$252,265"

9 Operating Expenses, Federal Funds, delete "\$46,894" and insert "\$155,402"

10 Adjust all totals accordingly.

11 Section 2. That section 2 of chapter 25 of the 2010 Session Laws be amended to read as  
12 follows:

13 DEPARTMENT OF EXECUTIVE MANAGEMENT

14 (19) Development



1           Operating Expenses, Federal Funds, delete "\$0" and insert "\$303,558"

2   Adjust all totals accordingly.

3           Section 3. That section 3 of chapter 25 of the 2010 Session Laws be amended to read as  
4 follows:

5   DEPARTMENT OF REVENUE AND REGULATION

6           (8) Insurance

7           Personal Services, Federal Funds, delete "\$0" and insert "\$53,624"

8           Operating Expenses, Federal Funds, delete "\$0" and insert "\$588,572"

9   Adjust all totals accordingly.

10          Section 4. That section 5 of chapter 25 of the 2010 Session Laws be amended to read as  
11 follows:

12   DEPARTMENT OF TOURISM AND STATE DEVELOPMENT

13          (1) Economic Development

14          Operating Expenses, Other Funds, delete "\$11,158,712" and insert "\$18,352,382"

15   Adjust all totals accordingly.

16          Section 5. That section 6 of chapter 25 of the 2010 Session Laws be amended to read as  
17 follows:

18   DEPARTMENT OF GAME, FISH AND PARKS

19          (5) State Parks and Recreation

20          Operating Expenses, General Funds, delete "\$1,020,414" and insert "\$1,162,314"

21   Adjust all totals accordingly.

22          Section 6. That section 7 of chapter 25 of the 2010 Session Laws be amended to read as  
23 follows:

24   DEPARTMENT OF SOCIAL SERVICES

1 (2) Economic Assistance

2 Personal Services, Federal Funds, delete "\$9,272,132" and insert "\$9,474,961"

3 Operating Expenses, Federal Funds, delete "\$61,933,045" and insert "\$61,956,040"

4 F.T.E., delete "320.5" and insert "322.9"

5 Adjust all totals accordingly.

6 Section 7. That section 7 of chapter 25 of the 2010 Session Laws be amended to read as  
7 follows:

8 DEPARTMENT OF SOCIAL SERVICES

9 (3) Medical and Adult Services

10 Operating Expenses, General Funds, delete "\$220,492,309" and insert "\$199,185,453"

11 F.T.E., delete "145.0" and insert "147.0"

12 Adjust all totals accordingly.

13 Section 8. That section 7 of chapter 25 of the 2010 Session Laws be amended to read as  
14 follows:

15 DEPARTMENT OF SOCIAL SERVICES

16 (4) Children's Services

17 Operating Expenses, General Funds, delete "\$23,994,645" and insert "\$23,153,414"

18 Adjust all totals accordingly.

19 Section 9. That section 10 of chapter 25 of the 2010 Session Laws be amended to read as  
20 follows:

21 DEPARTMENT OF TRANSPORTATION

22 (1) General Operations

23 Operating Expenses, Federal Funds, delete "\$28,325,183" and insert "\$44,325,183"

24 Operating Expenses, Other Funds, delete "\$85,312,439" and insert "\$89,053,436"

1 Adjust all totals accordingly.

2 Section 10. That section 11 of chapter 25 of the 2010 Session Laws be amended to read as  
3 follows:

4 DEPARTMENT OF EDUCATION

5 (1) Administration, Secretary of Education

6 Operating Expenses, Federal Funds, delete "\$6,888,192" and insert "\$7,808,192"

7 Adjust all totals accordingly.

8 Section 11. That section 11 of chapter 25 of the 2010 Session Laws be amended to read as  
9 follows:

10 DEPARTMENT OF EDUCATION

11 (2) State Aid to General Education

12 Operating Expenses, General Funds, delete "\$316,510,858" and insert "\$321,419,327"

13 Adjust all totals accordingly.

14 Section 12. That section 11 of chapter 25 of the 2010 Session Laws be amended to read as  
15 follows:

16 DEPARTMENT OF EDUCATION

17 (10) Curriculum, Career and Technical Education

18 Operating Expenses, Federal Funds, delete "\$9,257,059" and insert "\$9,707,059"

19 Adjust all totals accordingly.

20 Section 13. That section 11 of chapter 25 of the 2010 Session Laws be amended to read as  
21 follows:

22 DEPARTMENT OF EDUCATION

23 (11) Postsecondary Vocational Education

24 Operating Expenses, General Funds, delete "\$21,115,827" and insert "\$21,911,820"

1 Adjust all totals accordingly.

2 Section 14. That section 13 of chapter 25 of the 2010 Session Laws be amended to read as  
3 follows:

4 BOARD OF REGENTS

5 (1) Regents Central Office

6 Operating Expenses, Other Funds, delete "\$28,814,307" and insert "\$32,401,859"

7 Adjust all totals accordingly.

8 Section 15. That section 13 of chapter 25 of the 2010 Session Laws be amended to read as  
9 follows:

10 BOARD OF REGENTS

11 (3) University of South Dakota Proper

12 Operating Expenses, General Funds, delete "\$0" and insert "\$2,558,423"

13 Adjust all totals accordingly.

14 Section 16. That section 13 of chapter 25 of the 2010 Session Laws be amended to read as  
15 follows:

16 BOARD OF REGENTS

17 (4) University of South Dakota School of Medicine

18 Operating Expenses, General Funds, delete "\$1,168,726" and insert "\$2,690,615"

19 Adjust all totals accordingly.

20 Section 17. That section 13 of chapter 25 of the 2010 Session Laws be amended to read as  
21 follows:

22 BOARD OF REGENTS

23 (5) South Dakota State University Proper

24 Operating Expenses, General Funds, delete "\$0" and insert "\$3,544,609"

1 Adjust all totals accordingly.

2 Section 18. That section 13 of chapter 25 of the 2010 Session Laws be amended to read as  
3 follows:

4 BOARD OF REGENTS

5 (8) South Dakota School of Mines and Technology

6 Personal Services, Federal Funds, delete "\$5,406,483" and insert "\$8,556,483"

7 Personal Services, Other Funds, delete "\$9,566,241" and insert "\$12,566,241"

8 Operating Expenses, General Funds, delete "\$217,097" and insert "\$1,376,218"

9 Operating Expenses, Federal Funds, delete "\$13,869,139" and insert "\$22,719,139"

10 Operating Expenses, Other Funds, delete "\$14,426,876" and insert "\$20,926,876"

11 FTE, delete "318.8" and insert "333.8"

12 Adjust all totals accordingly.

13 Section 19. That section 13 of chapter 25 of the 2010 Session Laws be amended to read as  
14 follows:

15 BOARD OF REGENTS

16 (9) Northern State University

17 Operating Expenses, General Funds, delete "\$407,477" and insert "\$1,105,800"

18 Adjust all totals accordingly.

19 Section 20. That section 13 of chapter 25 of the 2010 Session Laws be amended to read as  
20 follows:

21 BOARD OF REGENTS

22 (10) Black Hills State University

23 Operating Expenses, General Funds, delete "\$0" and insert "\$575,107"

24 Adjust all totals accordingly.

1 Section 21. That section 13 of chapter 25 of the 2010 Session Laws be amended to read as  
2 follows:

3 **BOARD OF REGENTS**

4 (11) Dakota State University

5 Personal Services, Federal Funds, delete "\$1,273,661" and insert "\$1,723,661"

6 Personal Services, Other Funds, delete "\$9,323,565" and insert "\$10,373,565"

7 Operating Expenses, General Funds, delete "\$24,653" and insert "\$590,604"

8 Operating Expenses, Other Funds, delete "\$8,554,279" and insert "\$10,054,279"

9 FTE, delete "249.8" and insert "259.8"

10 Adjust all totals accordingly.

11 Section 22. That section 14 of chapter 25 of the 2010 Session Laws be amended to read as  
12 follows:

13 **DEPARTMENT OF MILITARY AND VETERANS' AFFAIRS**

14 (3) Air Guard

15 Personal Services, Federal Funds, delete "\$1,912,337" and insert "\$2,086,742"

16 F.T.E., delete "41.0" and insert "44.0"

17 Adjust all totals accordingly.

18 Section 23. That section 15 of chapter 25 of the 2010 Session Laws be amended to read as  
19 follows:

20 **DEPARTMENT OF CORRECTIONS**

21 (1) Administration, Central Office

22 Personal Services, General Funds, delete "\$1,968,287" and insert "\$1,962,287"

23 Operating Expenses, General Funds, delete "\$7,908,162" and insert "\$7,883,162"

24 Adjust all totals accordingly.

1 Section 24. That section 15 of chapter 25 of the 2010 Session Laws be amended to read as  
2 follows:

3 DEPARTMENT OF CORRECTIONS

4 (2) Mike Durfee State Prison

5 Personal Services, General Funds, delete "\$8,455,146" and insert "\$8,380,702"

6 Operating Expenses, General Funds, delete "\$3,981,790" and insert "\$4,060,791"

7 Adjust all totals accordingly.

8 Section 25. That section 15 of chapter 25 of the 2010 Session Laws be amended to read as  
9 follows:

10 DEPARTMENT OF CORRECTIONS

11 (3) State Penitentiary

12 Personal Services, General Funds, delete "\$13,364,098" and insert "\$13,260,848"

13 Operating Expenses, General Funds, delete "\$4,884,315" and insert "\$4,653,322"

14 Adjust all totals accordingly.

15 Section 26. That section 15 of chapter 25 of the 2010 Session Laws be amended to read as  
16 follows:

17 DEPARTMENT OF CORRECTIONS

18 (4) Women's Prison

19 Personal Services, General Funds, delete "\$2,275,651" and insert "\$2,235,651"

20 Operating Expenses, General Funds, delete "\$850,809" and insert "\$823,843"

21 Operating Expenses, Federal Funds, delete "\$275,951" and insert "\$270,112"

22 Adjust all totals accordingly.

23 Section 27. That section 15 of chapter 25 of the 2010 Session Laws be amended to read as  
24 follows:

1 DEPARTMENT OF CORRECTIONS

2 (6) Community Service

3 Operating Expenses, General Funds, delete "\$1,424,320" and insert "\$1,423,518"

4 Adjust all totals accordingly.

5 Section 28. That section 15 of chapter 25 of the 2010 Session Laws be amended to read as  
6 follows:

7 DEPARTMENT OF CORRECTIONS

8 (7) Parole Services

9 Personal Services, General Funds, delete "\$2,689,121" and insert "\$2,615,121"

10 Operating Expenses, General Funds, delete "\$1,012,616" and insert "\$1,007,616"

11 Adjust all totals accordingly.

12 Section 29. That section 15 of chapter 25 of the 2010 Session Laws be amended to read as  
13 follows:

14 DEPARTMENT OF CORRECTIONS

15 (8) Juvenile Community Corrections

16 Personal Services, General Funds, delete "\$2,442,476" and insert "\$2,333,070"

17 Operating Expenses, General Funds, delete "\$12,930,213" and insert "\$12,448,759"

18 Adjust all totals accordingly.

19 Section 30. That section 15 of chapter 25 of the 2010 Session Laws be amended to read as  
20 follows:

21 DEPARTMENT OF CORRECTIONS

22 (9) Youth Challenge Center

23 Personal Services, General Funds, delete "\$1,321,922" and insert "\$1,259,922"

24 Adjust all totals accordingly.

1 Section 31. That section 15 of chapter 25 of the 2010 Session Laws be amended to read as  
2 follows:

3 DEPARTMENT OF CORRECTIONS

4 (10) Patrick Henry Brady Academy

5 Personal Services, General Funds, delete "\$1,323,267" and insert "\$1,295,267"

6 Adjust all totals accordingly.

7 Section 32. That section 15 of chapter 25 of the 2010 Session Laws be amended to read as  
8 follows:

9 DEPARTMENT OF CORRECTIONS

10 (11) State Treatment and Rehabilitation Academy

11 Personal Services, General Funds, delete "\$2,743,295" and insert "\$2,674,295"

12 Operating Expenses, General Funds, delete "\$2,527,145" and insert "\$2,523,371"

13 Adjust all totals accordingly.

14 Section 33. That section 15 of chapter 25 of the 2010 Session Laws be amended to read as  
15 follows:

16 DEPARTMENT OF CORRECTIONS

17 (12) QUEST and ExCEL

18 Personal Services, General Funds, delete "\$1,427,503" and insert "\$1,403,603"

19 Adjust all totals accordingly.

20 Section 34. That section 16 of chapter 25 of the 2010 Session Laws be amended to read as  
21 follows:

22 DEPARTMENT OF HUMAN SERVICES

23 (2) Developmental Disabilities

24 Operating Expenses, General Funds, delete "\$36,678,731" and insert "\$33,148,603"

1 Adjust all totals accordingly.

2 Section 35. That section 16 of chapter 25 of the 2010 Session Laws be amended to read as  
3 follows:

4 DEPARTMENT OF HUMAN SERVICES

5 (3) South Dakota Developmental Center--Redfield

6 Personal Services, General Funds, delete "\$6,505,285" and insert "\$5,871,595"

7 Operating Expenses, General Funds, delete "\$1,902,505" and insert "\$1,656,592"

8 Operating Expenses, Federal Funds, delete "\$3,449,646" and insert "\$3,337,103"

9 Adjust all totals accordingly.

10 Section 36. That section 16 of chapter 25 of the 2010 Session Laws be amended to read as  
11 follows:

12 DEPARTMENT OF HUMAN SERVICES

13 (4) Alcohol and Drug Abuse

14 Operating Expenses, General Funds, delete "\$8,622,849" and insert "\$7,616,857"

15 Adjust all totals accordingly.

16 Section 37. That section 16 of chapter 25 of the 2010 Session Laws be amended to read as  
17 follows:

18 DEPARTMENT OF HUMAN SERVICES

19 (5) Rehabilitation Services

20 Operating Expenses, General Funds, delete "\$3,085,683" and insert "\$2,938,967"

21 Adjust all totals accordingly.

22 Section 38. That section 16 of chapter 25 of the 2010 Session Laws be amended to read as  
23 follows:

24 DEPARTMENT OF HUMAN SERVICES

1 (12) Human Services Center

2 Personal Services, General Funds, delete "\$21,138,798" and insert "\$20,050,657"

3 Personal Services, Federal Funds, delete "\$8,227,886" and insert "\$9,048,053"

4 Operating Expenses, General Funds, delete "\$10,017,405" and insert "\$9,028,629"

5 Operating Expenses, Federal Funds, delete "\$1,650,718" and insert "\$2,368,430"

6 Adjust all totals accordingly.

7 Section 39. That section 16 of chapter 25 of the 2010 Session Laws be amended to read as  
8 follows:

9 DEPARTMENT OF HUMAN SERVICES

10 (13) Community Mental Health

11 Personal Services, General Funds, delete "\$511,315" and insert "\$510,290"

12 Operating Expenses, General Funds, delete "\$15,280,929" and insert "\$14,140,687"

13 Adjust all totals accordingly.

14 Section 40. That section 22 of chapter 25 of the 2010 Session Laws be amended to read as  
15 follows:

16 SCHOOL AND PUBLIC LANDS

17 (1) Administration of School and Public Lands

18 Operating Expenses, Federal Funds, delete "\$0" and insert "\$34,381"

19 Operating Expenses, Other Funds, delete "\$225,000" and insert "\$239,610"

20 Adjust all totals accordingly.

21 Section 41. That chapter 25 of the 2010 Session Laws be amended to by adding thereto a  
22 NEW SECTION to read as follows:

23 Section 46. The state treasurer shall transfer to the state general fund one hundred forty-one  
24 thousand nine hundred dollars (\$141,900) from the Custer State Park improvement fund to

1 make the bond payment for Custer State Park improvements.

2 Section 42. That chapter 25 of the 2010 Session Laws be amended to by adding thereto a

3 NEW SECTION to read as follows:

4 Section 47. Funds appropriated in subdivision (2) of section 13 of this Act which are  
5 unspent at the end of fiscal year 2011 may be carried over to fiscal year 2012.

6 Section 43. Funds appropriated by this Act which are unspent at the end of fiscal year 2011  
7 may be carried over to fiscal year 2012.

8 Section 44. This Act is effective June 28, 2011.

# State of South Dakota

EIGHTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2011

400S0654

HOUSE APPROPRIATIONS

ENGROSSED NO. **SB 191** - 2/28/2011

**This bill has been extensively amended (houghoused) and may no longer be consistent with the original intention of the sponsor.**

Introduced by: The Committee on Appropriations at the request of the Office of the Governor

1 FOR AN ACT ENTITLED, An Act to revise certain provisions providing for the sales tax on  
2 food refund program.

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

4 Section 1. That § 28-1-71 be amended to read as follows:

5 28-1-71. To be eligible for the sales tax on food refund program, a person shall:

6 (1) Be a South Dakota resident;

7 (2) Be the head of the household and certify the number of persons in the household;

8 (3) Have countable income above one hundred thirty percent and below one hundred  
9 fifty-one percent of the federal poverty level, as updated annually by the Department

10 of Social Services in administrative rules promulgated pursuant to chapter 1-26;

11 (4) Not be a current recipient of ~~food stamp~~ supplemental nutrition assistance program  
12 benefits.

13 Section 2. That § 28-1-73 be amended to read as follows:

14 28-1-73. To receive sales tax on food refunds pursuant to §§ 28-1-70 to 28-1-77, inclusive,



1 a household shall:

- 2 ~~—(1)— Apply apply for a quarterly an annual refund during an annual enrollment period on~~  
3 forms prescribed by the Department of Social Services ~~using the prior three month~~  
4 ~~periods's income;~~
- 5 ~~—(2)— Certify that any refund received will only be used to purchase food as defined in~~  
6 ~~§§ 10-45-1 and 10-46-1; and~~
- 7 ~~—(3)— Report quarterly on forms prescribed by the Department of Social Services to~~  
8 ~~continue eligibility for a refund.~~

9 Section 3. That § 28-1-74 be repealed.

10 ~~—28-1-74. At the time in which a household has been accepted into the sales tax on food~~  
11 ~~refund program, the household is entitled to a quarterly refund of the estimated amount of sales~~  
12 ~~tax on food paid as determined in § 28-1-75.~~

13 Section 4. That § 28-1-75 be amended to read as follows:

14 28-1-75. The estimate of sales tax on food paid or refund awarded under this program shall  
15 be determined based on:

- 16 (1) The thrifty food plan as adopted and updated annually in administrative rules  
17 promulgated by the Department of Social Services pursuant to chapter 1-26; and
- 18 (2) The number of individuals in the household.

19 A monthly allotment shall be determined based on the thrifty food plan's maximum  
20 allotment and the corresponding number of individuals in the household. Once the monthly  
21 allotment is determined, it shall be annualized and multiplied by the average sales tax rate in  
22 South Dakota as determined by the Department of Revenue and Regulation. This shall be the  
23 annual level of refund eligible for the household. ~~The annual refund shall be converted to a~~  
24 ~~quarterly refund. This shall be the amount of eligible refund to the household.~~

1 Section 5. That § 28-1-76 be repealed.

2 ~~28-1-76. If a household is a participant in the food stamp program administered by the~~  
3 ~~Department of Social Services under chapter 28-12 for any of the period in which a refund is~~  
4 ~~computed under § 28-1-75, those food stamp benefits shall be deducted from any refund~~  
5 ~~received under the provisions of §§ 28-1-70 to 28-1-77, inclusive.~~

6 Section 6. That § 28-1-77 be amended to read as follows:

7 28-1-77. The method of payment utilized to make payments authorized by §§ 28-1-70 to 28-  
8 1-77, inclusive, shall be made by ~~electronic debit card or by paper warrant.~~

9 Section 7. That section 5 of chapter 140 of the 2009 Session Laws be amended to read as  
10 follows:

11 Section 5. ~~Any amounts appropriated in this Act not lawfully expended or obligated shall~~  
12 ~~revert in accordance with the procedures prescribed in chapter 4-8. The provisions of § 4-8-21~~  
13 ~~do not apply to the moneys appropriated by section 3 of this Act.~~

# State of South Dakota

EIGHTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2011

960S0223

SENATE STATE AFFAIRS  
ENGROSSED NO. **SB 193** - 2/14/2011

Introduced by: Senators Gray, Brown, and Garnos and Representatives Cronin, Abdallah,  
Hoffman, Juhnke, Kirkeby, Perry, and Street

1 FOR AN ACT ENTITLED, An Act to authorize counties to issue additional on-sale licenses  
2 for certain facilities located on hunting preserves.

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

4 Section 1. That chapter 35-4 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 Notwithstanding the provisions of § 35-4-11.1, each county may issue a hunting preserve  
7 facility on-sale license to any facility that has a shooting preserve operating permit issued  
8 pursuant to chapter 41-10 and a license issued by the Department of Health pursuant to chapter  
9 34-18. The licensee may only sell alcoholic beverages during the shooting preserve season for  
10 consumption on the licensed premises to a guest as part of a hunting or shooting rental package  
11 for use of the shooting preserve's facilities and services. The licensee may not offer any  
12 alcoholic beverages for retail sale to other members of the general public. The facility shall have  
13 rooms that are suitable for lodging to host guests and equipment and seating for the preparation  
14 and serving of food for consumption on the premises. For the purposes of this section, the term,



1 premises, means the same facility which is also licensed by the Department of Health pursuant  
2 to chapter 34-18. The license fee shall be five hundred dollars per season. The renewal fee shall  
3 be five hundred dollars per season. Any license issued pursuant to this section may not be  
4 transferred to a different location.

# State of South Dakota

EIGHTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2011

400S0616

## HOUSE EDUCATION ENGROSSED NO. **SB 200** 3/2/2011

Introduced by: The Committee on Education at the request of the Office of the Governor

1 FOR AN ACT ENTITLED, An Act to revise certain provisions related to school district fund  
2 balances.

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  
13 Services, the Unified Judicial System, the Department of Corrections, or other state  
14 agencies and are attending a public school may be included in the average daily  
15 membership of the receiving district when enrolled in the receiving district. When



1 counting a student who meets these criteria in its general enrollment average daily  
2 membership, the receiving district may begin the enrollment on the first day of  
3 attendance. The district of residence prior to the custodial transfer may not include  
4 students who meet these criteria in its general enrollment average daily membership  
5 after the student ceases to attend school in the resident district;

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

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

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

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

14 (2A) "Fall enrollment," the number of kindergarten through twelfth grade students enrolled  
15 in all schools operated by the school district on the last Friday of September of the  
16 current school year minus the number of students for whom the district receives  
17 tuition, except nonresident students who are in the care and custody of a state agency  
18 and are attending a public school and students for whom tuition is being paid  
19 pursuant to § 13-28-42.1, plus the number of students for whom the district pays  
20 tuition. When computing state aid to education for a school district under the  
21 foundation program pursuant to § 13-13-73, the secretary of the Department of  
22 Education shall use either the school district's fall enrollment or the average of the  
23 school district's fall enrollment from the previous two years, whichever is higher;

24 (2B) Repealed by SL 2010, ch 84, § 1.

1 (2C) "Small school adjustment," calculated as follows:

2 (a) For districts with a fall enrollment of two hundred or less, multiply 0.2 times  
3 \$4,237.72;

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

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

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

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

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

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

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

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

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

1 ~~— (8) — "General fund balance percentage," is a school district's general fund balance divided~~  
2 ~~by the school district's total general fund expenditures for the previous school fiscal~~  
3 ~~year, the quotient expressed as a percent;~~

4 ~~— (9) — "General fund base percentage," is the lesser of:~~

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

6 ~~— (b) — The maximum allowable percentage for that particular fiscal year as stated in~~  
7 ~~this subsection.~~

8 ~~— For fiscal year 2008, the maximum allowable percentage is one hundred percent; for~~  
9 ~~fiscal year 2009, eighty percent; for fiscal year 2010, sixty percent; for fiscal years~~  
10 ~~2011 to 2014, inclusive, forty percent for each fiscal year; for fiscal year 2015 and~~  
11 ~~subsequent fiscal years, twenty-five percent. However, the general fund base~~  
12 ~~percentage may always be at least twenty-five percent;~~

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

15 ~~— (11) — "General fund exclusions," revenue a school district has received from the imposition~~  
16 ~~of the excess tax levy pursuant to § 10-12-43; revenue a school district has received~~  
17 ~~from gifts, contributions, grants, or donations; revenue a school district has received~~  
18 ~~under the provisions of §§ 13-6-92 to 13-6-96, inclusive; revenue a school district~~  
19 ~~has received as compensation for being a sparse school district under the terms of~~  
20 ~~§§ 13-13-78 and 13-13-79; any revenue a school district has received under the~~  
21 ~~provisions of the American Recovery and Reinvestment Act of 2009 (P.L. 111-5);~~  
22 ~~and any revenue in the general fund set aside for a noninsurable judgment.~~

23 Section 2. That § 13-13-10.3 be repealed.

24 ~~— 13-13-10.3. If two or more school districts consolidate, the general fund base percentage for~~

1 ~~the newly reorganized district shall be based upon the highest general fund balance percentage~~  
2 ~~as defined in subdivision 13-13-10.1(8) of the consolidating districts.~~

3 Section 3. That § 13-13-73.2 be repealed.

4 ~~— 13-13-73.2. A school district's state aid for general education as calculated pursuant to § 13-~~  
5 ~~13-73 shall be reduced by the amount calculated by subtracting the allowable general fund~~  
6 ~~balance from the general fund balance. If the result is less than zero, the result equals zero.~~

7 Section 4. That § 13-13-73.3 be repealed.

8 ~~— 13-13-73.3. The secretary of education shall determine the reduction in state aid to education~~  
9 ~~pursuant to § 13-13-73.2. The secretary of education shall distribute the amount of money so~~  
10 ~~determined to school districts that received state aid pursuant to chapter 13-13 on a pro rata~~  
11 ~~basis according to the district's fall enrollment compared to the total fall enrollment of all~~  
12 ~~districts eligible for this distribution.~~

13 Section 5. That § 13-13-73.4 be repealed.

14 ~~— 13-13-73.4. The secretary of the Department of Education shall promulgate rules, pursuant~~  
15 ~~to chapter 1-26, that calculate exclusions for revenue received from opting out of the property~~  
16 ~~tax limitations such that all expenditures shall be credited to formula revenue and unreserved~~  
17 ~~general fund balance from the preceding fiscal year prior to any credits against opt-out revenue.~~

18 Section 6. That § 13-13-76 be repealed.

19 ~~— 13-13-76. There is hereby created the Excess General Fund Oversight Board within the~~  
20 ~~Department of Education. The board shall consist of five members, appointed by the Governor.~~  
21 ~~The Excess General Fund Oversight Board may exempt a school district from the provisions of~~  
22 ~~§ 13-13-73.2 if a school district can demonstrate to the Excess General Fund Oversight Board~~  
23 ~~that its general fund balance percentage is the result of special circumstances.~~

24 Section 7. That § 13-13-77 be repealed.

1 ~~13-13-77. Any funds transferred by a school district to the general fund of the school district~~  
2 ~~pursuant to § 9-21-28 may not be considered a part of the general fund balance for purposes of~~  
3 ~~this chapter.~~