

# State of South Dakota

EIGHTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2013

965U0109

## SENATE ENGROSSED NO. **SB 159** - 02/20/2013

Introduced by: Senators White, Bradford, Buhl, Heineman (Phyllis), Hunhoff (Jean), Johnston, Kirkeby, Krebs, Lucas, Maher, Monroe, Novstrup (Al), Peters, Rampelberg, Soholt, Tidemann, Tieszen, and Welke and Representatives Mickelson, Bolin, Cronin, Dryden, Duvall, Erickson, Feickert, Feinstein, Gibson, Haggar (Don), Hajek, Hansen, Hawks, Hawley, Heinert, Hickey, Johns, Magstadt, Miller, Novstrup (David), Parsley, Qualm, Ring, Rounds, Rozum, Schoenfish, Sly, Stalzer, Stevens, Tulson, Werner, Westra, Wink, and Wismer

1 FOR AN ACT ENTITLED, An Act to revise the state aid to general education formula by  
2 including an adjustment for students with limited English proficiency.

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

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

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

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

12 (1A) Nonresident students who are in the care and custody of the Department of Social



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

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

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

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

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

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

1 Education shall use either the school district's fall enrollment or the average of the  
2 school district's fall enrollment from the previous two years, whichever is higher;

3 (2B) Repealed by SL 2010, ch 84, § 1.

4 (2C) "Small school adjustment," calculated as follows:

5 (a) For districts with a fall enrollment of two hundred or less, multiply 0.2 times  
6 \$4,237.72;

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

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

13 (2D) "Limited English proficiency (LEP) adjustment," is calculated as follows:

14 (a) Multiply 0.01 times the per student allocation; and

15 (b) Multiply the product obtained in (a) times the number of kindergarten through  
16 twelfth grade students who, in the prior school year, scored below level four  
17 on the state-administered language proficiency assessment as required in the  
18 state's consolidated state application pursuant to 20 USC 6311(b)(7) as of  
19 January 1, 2013;

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

24 (4) "Per student allocation," for school fiscal year 2012 is \$4,389.95. Each school fiscal

1 year thereafter, the per student allocation is the previous fiscal year's per student  
2 allocation increased by the index factor;

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

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

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

7 (c) The limited English proficiency (LEP) adjustment, calculated pursuant to  
8 subdivision (2D), if applicable;

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

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

14 (8) "General fund reserves," the sum of a school district's nonspendable and restricted  
15 fund balances of the general fund;

16 (9) "Nonspendable fund balance," that amount of the fund balance that is not in  
17 spendable form;

18 (10) "Restricted fund balance," that amount of the fund balance that has constraints on  
19 how it may be used that are externally imposed or are imposed by law.

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

21 13-13-73. The secretary of the Department of Education shall compute state aid to education  
22 for each school district under the foundation program according to the following calculations:

23 (1) Determine each school district's fall enrollment;

24 (2) To arrive at the local need per district:

- 1 (a) Multiply the per student allocation by the fall enrollment;
- 2 (b) Multiply the small school adjustment, if applicable, by the fall enrollment; ~~and~~
- 3 (c) Calculate the limited English proficiency (LEP) adjustment pursuant to
- 4 subdivision (2D), if applicable; and
- 5 (d) Add the product of subsection (a) to the product of subsection (b) and to the
- 6 calculation in subsection (c);
- 7 (3) State aid is (a) local need minus local effort, or (b) zero if the calculation in (a) is a
- 8 negative number;
- 9 (4) If the state aid appropriation for the general support of education is in excess of the
- 10 entitlement provided for in this section and the entitlement provided for in § 13-13-
- 11 85, the excess shall be used to fund any shortfall of the appropriation as provided for
- 12 in § 13-37-36.3. The secretary shall report to the Governor by January seventh of
- 13 each year, the amount of state aid necessary to fully fund the general aid formula in
- 14 the current year. If a shortfall in the state aid appropriation for general education
- 15 exists that cannot be covered by § 13-37-45, the Governor shall inform the
- 16 Legislature and provide a proposal to eliminate the shortfall.