

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

226C0443

HOUSE BILL NO. 1178

Introduced by: Representatives Richter, Broderick, Brooks, Brown (Richard), Cerny, Chicoine, Davis, Duniphan, Fiegen, Fischer-Clemens, Haley, Koetzle, Konold, Lucas, McIntyre, Michels, Monroe, Munson (Donald), Nachtigal, Peterson, Putnam, Roe, Slaughter, Solum, Sutton (Daniel), Sutton (Duane), Wilson, and Windhorst and Senators Everist, Albers, Brown (Arnold), Dunn (Jim), Flowers, Hainje, Ham, Hutmacher, Madden, Moore, Munson (David), Olson, Paisley, Shoener, Staggers, Symens, and Vitter

1 FOR AN ACT ENTITLED, An Act to revise the state aid for special education funding formula.

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

3 Section 1. That § 13-37-35 be repealed.

4 ~~— 13-37-35. Terms used in §§ 13-37-35 to 13-37-48, inclusive, mean:~~

5 ~~— (1) — "Resident average daily membership," the average number of resident kindergarten~~
6 ~~through twelfth grade pupils enrolled in all schools operated by the school district~~
7 ~~during the previous regular school year plus the average number of pupils for whom~~
8 ~~the district pays tuition and plus the average number of resident pupils enrolled in~~
9 ~~another school district under the provisions of § 13-28-40;~~

10 ~~— (2) — "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 ~~— (3) — "Local effort," is the amount of taxes payable each year, using the maximum levy for~~

- 1 the special education fund of a school district pursuant to § 13-37-16;
- 2 ~~— (4) — "Allocation for a student with a mild disability," for the period January 1, 1997,~~
3 ~~through June 30, 1997, is \$892. For school fiscal year beginning July 1, 1997, the~~
4 ~~allocation for a student with a mild disability shall be \$1,785 increased by the lesser~~
5 ~~of the index factor or three percent. For each school year thereafter, the allocation for~~
6 ~~a student with a mild disability shall be the previous fiscal year's allocation for such~~
7 ~~child increased by the lesser of the index factor or three percent;~~
- 8 ~~— (5) — "Allocation for a student with a severe disability," for the period January 1, 1997,~~
9 ~~through June 30, 1997, is \$10,707. For school fiscal year beginning July 1, 1997, the~~
10 ~~allocation for a child with a severe disability shall be \$21,415 increased by the lesser~~
11 ~~of the index factor or three percent. For each school year thereafter, the allocation for~~
12 ~~a child with a severe disability shall be the previous fiscal year's allocation for such~~
13 ~~child increased by the lesser of the index factor or three percent;~~
- 14 ~~— (6) — "Local need," an amount to be determined as follows:~~
- 15 ~~— (i) — Multiply the resident average daily membership times 0.1025;~~
16 ~~— (ii) — Multiply the result of (i) times the allocation for a student with a mild disability;~~
17 ~~— (iii) — Multiply the resident average daily membership times 0.015;~~
18 ~~— (iv) — Multiply the result of (iii) times the allocation for a student with a severe~~
19 ~~disability;~~
- 20 ~~— (v) — Add together the result of (ii) and the result of (iv);~~
- 21 ~~— (7) — "Student with mild disability," is a student whose performance level is not sufficient~~
22 ~~to demonstrate success in the regular education environment without the provision~~
23 ~~of special education, and who meets eligibility criteria under Part B, IDEA, or both;~~
- 24 ~~— (8) — "Student with severe disability," is a student with a low-incidence disability who:~~
- 25 ~~— (a) — Meets eligibility criteria under Part B, IDEA; and~~

1 ~~— (b) Presents needs which require intervention skills which are substantially~~
 2 ~~different from those provided to nondisabled students, in that the skills are~~
 3 ~~disability-specific and require special training, equipment, and facilities to~~
 4 ~~perform;~~

5 ~~— (9) "Effort factor," the school district's special education tax levy in dollars per thousand~~
 6 ~~divided by \$1.40.~~

7 Section 2. That chapter 13-37 be amended by adding thereto a NEW SECTION to read as
 8 follows:

9 Terms used in chapter 13-37 mean:

- 10 (1) "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 (2) "Local effort," is the amount of taxes payable each year, using the maximum levy for
 15 the special education fund of a school district pursuant to § 13-37-16;
- 16 (3) "Allocation for a student with a primary disability of autism," for the school fiscal year
 17 beginning July 1, 1999, is \$14,759. For each school year thereafter, the allocation for
 18 a student with a primary disability of autism shall be the previous fiscal year's
 19 allocation for such child increased by the lesser of the index factor or three percent;
- 20 (4) "Allocation for a student with a primary disability of deaf-blindness," for the school
 21 fiscal year beginning July 1, 1999, is \$7,644. For each school year thereafter, the
 22 allocation for a student with a primary disability of deaf-blindness shall be the previous
 23 fiscal year's allocation for such child increased by the lesser of the index factor or
 24 three percent;
- 25 (5) "Allocation for a student with a primary disability of deafness," for the school fiscal

1 year beginning July 1, 1999, is \$11,144. For each school year thereafter, the allocation
2 for a student with a primary disability of deafness shall be the previous fiscal year's
3 allocation for such child increased by the lesser of the index factor or three percent;

4 (6) "Allocation for a student with a primary disability of developmentally delayed," for
5 the school fiscal year beginning July 1, 1999, is \$6,288. For each school year
6 thereafter, the allocation for a student with a primary disability of developmentally
7 delayed shall be the previous fiscal year's allocation for such child increased by the
8 lesser of the index factor or three percent;

9 (7) "Allocation for a student with a primary disability of hearing impairment," for the
10 school fiscal year beginning July 1, 1999, is \$9,702. For each school year thereafter,
11 the allocation for a student with a primary disability of hearing impairment shall be the
12 previous fiscal year's allocation for such child increased by the lesser of the index
13 factor or three percent;

14 (8) "Allocation for a student with a primary disability of mental retardation," for the
15 school fiscal year beginning July 1, 1999, is \$7,995. For each school year thereafter,
16 the allocation for a student with a primary disability of mental retardation shall be the
17 previous fiscal year's allocation for such child increased by the lesser of the index
18 factor or three percent;

19 (9) "Allocation for a student with a primary disability of multiple disabilities," for the
20 school fiscal year beginning July 1, 1999, is \$15,863. For each school year thereafter,
21 the allocation for a student with a primary disability of multiple disabilities shall be the
22 previous fiscal year's allocation for such child increased by the lesser of the index
23 factor or three percent;

24 (10) "Allocation for a student with a primary disability of orthopedic impairment," for the
25 school fiscal year beginning July 1, 1999, is \$9,958. For each school year thereafter,

1 the allocation for a student with a primary disability of orthopedic impairment shall
2 be the previous fiscal year's allocation for such child increased by the lesser of the
3 index factor or three percent;

4 (11) "Allocation for a student with a primary disability of other health impairments," for
5 the school fiscal year beginning July 1, 1999, is \$5,243. For each school year
6 thereafter, the allocation for a student with a primary disability of other health
7 impairments shall be the previous fiscal year's allocation for such child increased by
8 the lesser of the index factor or three percent;

9 (12) "Allocation for a student with a primary disability of serious emotional disturbance,"
10 for the school fiscal year beginning July 1, 1999, is \$7,887. For each school year
11 thereafter, the allocation for a student with a primary disability of serious emotional
12 disturbance shall be the previous fiscal year's allocation for such child increased by the
13 lesser of the index factor or three percent;

14 (13) "Allocation for a student with a primary disability of specific learning disabilities," for
15 the school fiscal year beginning July 1, 1999, is \$4,069. For each school year
16 thereafter, the allocation for a student with a primary disability of specific learning
17 disabilities shall be the previous fiscal year's allocation for such child increased by the
18 lesser of the index factor or three percent;

19 (14) "Allocation for a student with a primary disability of speech or language
20 impairments," for the school fiscal year beginning July 1, 1999, is \$1,896. For each
21 school year thereafter, the allocation for a student with a primary disability of speech
22 or language impairments shall be the previous fiscal year's allocation for such child
23 increased by the lesser of the index factor or three percent;

24 (15) "Allocation for a student with a primary disability of traumatic brain injury," for the
25 school fiscal year beginning July 1, 1999, is \$11,555. For each school year thereafter,

1 the allocation for a student with a primary disability of traumatic brain injury shall be
2 the previous fiscal year's allocation for such child increased by the lesser of the index
3 factor or three percent;

4 (16) "Allocation for a student with a primary disability of visual impairment including
5 blindness," for the school fiscal year beginning July 1, 1999, is \$10,148. For each
6 school year thereafter, the allocation for a student with a primary disability of visual
7 impairment including blindness shall be the previous fiscal year's allocation for such
8 child increased by the lesser of the index factor or three percent;

9 (17) "Child count," is the number of students in need of special education or special
10 education and related services according to criteria set forth in rules promulgated
11 pursuant to §§ 13-37-1.1 and 13-37-46 submitted to the Department of Education
12 and Cultural Affairs in accordance with rules promulgated pursuant to § 13-37-1.1;

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

14 (a) Multiply the number students having a primary disability of autism as reported
15 on the child count for the previous school fiscal year by the allocation for a
16 student with a primary disability of autism;

17 (b) Multiply the number of students having a primary disability of deaf-blindness
18 as reported on the child count for the previous school fiscal year by the
19 allocation for a student with a primary disability of deaf-blindness;

20 (c) Multiply the number of students having a primary disability of deafness as
21 reported on the child count for the previous school fiscal year by the allocation
22 for a student with a primary disability of deaf-blindness;

23 (d) Multiply the number students having a primary disability of hearing impairment
24 as reported on the child count for the previous school fiscal year by the
25 allocation for a student with a primary disability of hearing impairment;

- 1 (e) Multiply the number students having a primary disability of mental retardation
2 as reported on the child count for the previous school fiscal year by the
3 allocation for a student with a primary disability of mental retardation;
- 4 (f) Multiply the number students having a primary disability of multiple disabilities
5 as reported on the child count for the previous school fiscal year by the
6 allocation for a student with a primary disability of multiple disabilities;
- 7 (g) Multiply the number students having a primary disability of orthopedic
8 impairment as reported on the child count for the previous school fiscal year
9 by the allocation for a student with a primary disability of orthopedic
10 impairment;
- 11 (h) Multiply the number students having a primary disability of other health
12 impairments as reported on the child count for the previous school fiscal year
13 by the allocation for a student with a primary disability of other health
14 impairments;
- 15 (i) Multiply the number students having a primary disability of serious emotional
16 disturbance as reported on the child count for the previous school fiscal year
17 by the allocation for a student with a primary disability of serious emotional
18 disturbance;
- 19 (j) Multiply the number students having a primary disability of specific learning
20 disabilities as reported on the child count for the previous school fiscal year by
21 the allocation for a student with a primary disability of specific learning
22 disabilities;
- 23 (k) Multiply the number students having a primary disability of speech or language
24 impairments as reported on the child count for the previous school fiscal year
25 by the allocation for a student with a primary disability of speech or language

- 1 (1) Calculate the local need of a school district;
- 2 (2) State aid for special education is:
 - 3 (a) Local need minus local effort, the difference multiplied by the effort factor; or
 - 4 (b) Zero if the calculation in (a) is a negative number.

5 Section 5. That chapter 13-37 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 Any records related to the reporting of the child count of a public school district shall be
8 subject to examination by the Department of Education and Cultural Affairs at all times.

9 Section 6. That chapter 13-37 be amended by adding thereto a NEW SECTION to read as
10 follows:

11 If, in the department's examination of the child count, it is determined that the data was
12 overreported, the department shall recover from the district's general fund the amount of state
13 aid overpaid as a result of the overreporting. Upon recovery of the overpayment, the department
14 shall deposit the overpayment into the state general fund. If the overreporting occurred with the
15 intent to increase the amount of state aid received by overreporting, the individual responsible
16 for the overreporting may be charged with a Class 1 misdemeanor as provided in § 13-8-44, with
17 the maximum penalty as defined in § 22-6-2.

18 Section 7. That chapter 13-37 be amended by adding thereto a NEW SECTION to read as
19 follows:

20 If the amount of funds distributed according to the chapter is less than the amount of funds
21 distributed in the previous fiscal year, each eligible district shall receive a pro rata share of the
22 difference based on the amount of funds it received in the current fiscal year pursuant to § 13-37-
23 36.

24 Section 8. That § 13-37-36.1 be amended to read as follows:

25 13-37-36.1. To establish the school district special education fund statutory carryover

1 excluding federal funds, the following calculations shall be performed:

2 (1) Divide the total federal special education revenue by the total special education
3 revenues; and

4 (2) Multiply the federal special education percentage calculated in (1) times the total
5 special education fund balance; and

6 (3) Deduct the amount of federal revenue calculated in (2) and the special education
7 revenues received pursuant to section 5 of this Act from the special education fund
8 balance.

9 Section 9. Section 5 of this Act is effective June 15, 1999.