

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

642C0125

SENATE BILL NO. 136

Introduced by: Senators Everist and Madden and Representatives Eccarius, Apa, Brown
(Richard), Crisp, McCoy, Napoli, Peterson, Pummel, and Windhorst

1 FOR AN ACT ENTITLED, An Act to provide for the establishment and funding of certain
2 alternative schools and to exempt their employees from certain collective bargaining
3 requirements.

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

5 Section 1. That chapter 13-23 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 Any school district or any postsecondary educational institution may designate a proposed
8 or existing school in the district as an alternative school. For purposes of this Act, a
9 postsecondary educational institution is any college or university, postsecondary institution, or
10 postsecondary technical institute located within the state that is determined by the secretary of
11 the Department of Education and Cultural Affairs to be regularly accredited to offer
12 postsecondary educational services by a recognized and appropriate accrediting agency, as
13 determined by the secretary. The alternative school may be established and administered by the
14 school district or by a separate governing body organized as a nonprofit corporation. If the
15 alternative school is established and administered by a separate governing body, the school may
16 only operate if the the school district or the postsecondary educational institution has designated

1 the school as an alternative school and grants approval to the alternative school on an annual
2 basis. Any alternative school established pursuant to this Act is a public school.

3 Section 2. That chapter 13-23 be amended by adding thereto a NEW SECTION to read as
4 follows:

5 For purposes of determining the amount of funding to which any school that has been
6 designated as an alternative school pursuant to section 1 of this Act is entitled, any student
7 enrolled in such an alternative school is considered to be a part of the general enrollment average
8 daily membership as defined in subdivision 13-13-10.1(1) of the school district in which the
9 alternative school is located. For each student enrolled in any such alternative school, the school
10 district shall pay to the alternative school an amount equal to ninety-five percent of the school
11 district's per student allocation as defined in subdivision 13-13-10.1(4).

12 Section 3. That chapter 13-10 be amended by adding thereto a NEW SECTION to read as
13 follows:

14 The teachers and employees of any school designated as an alternative school pursuant to
15 section 1 of this Act by a school district or postsecondary educational institution may be
16 employed, by the school district or by the governing body of the alternative school, in
17 accordance with the provisions of section 5 of this Act, through one or more contracts that are
18 wholly or partially separate from any contract under which the teachers and employees of the
19 school district or postsecondary educational institution are employed. Except as provided in this
20 Act, the contract and teacher certification requirements of §§ 13-42-1, 13-42-2, 13-43-4, 13-43-
21 5, and 13-43-6 apply to any such alternative school.

22 Section 4. That § 3-18-3 be amended to read as follows:

23 3-18-3. ~~Representatives~~ Except as provided in sections 3 and 5 of this Act, representatives
24 designated or selected for the purpose of formal representation by the majority of the employees
25 in a unit appropriate for such purposes ~~shall be~~ are the exclusive representatives of all employees

1 in such unit for the purpose of representation in respect to rates of pay, wages, hours of
2 employment, or other conditions of employment; ~~provided that.~~ However, any individual
3 employee, or a group of employees, ~~shall have the right~~ may at any time to present grievances
4 to their employer and ~~to~~ may have such grievances adjusted without the intervention of the
5 formal representative ~~as long as~~ if the adjustment is not inconsistent with the terms of any
6 settlement with the formal representative then in effect, and ~~provided that~~ if the formal
7 representative has been given opportunity to be present at such adjustment.

8 Section 5. That chapter 3-18 be amended by adding thereto a NEW SECTION to read as
9 follows:

10 The employees working in a school that has been designated as an alternative school by a
11 school district or postsecondary educational institution pursuant to section 1 of this Act may, for
12 the purposes specified in § 3-18-3 and as provided in section 3 of this Act, enter into a contract
13 or agreement with the school district or with the governing body of the alternative school that
14 is separate from any contract or agreement entered into by the employees of the school district
15 or postsecondary educational institution. The separate contract may be negotiated by the
16 alternative school employees or by their representative under the same terms and requirements
17 specified in § 3-18-3, and the representative of the alternative school employees need not be the
18 representative of the employees of the district or postsecondary educational institution.