

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

785P0634

## SENATE BILL NO. 149

Introduced by: Senators Heidepriem, Bartling, Hanson (Gary), Hoerth, Hundstad, Jerstad, Kloucek, Koetzle, Maher, Nesselhuf, Peterson (Jim), Turbak Berry, and Two Bulls and Representatives Gillespie, Ahlers, Burg, Dennert, and Halverson

1 FOR AN ACT ENTITLED, An Act to increase general funding for school districts, to impose  
2 a temporary limit on the growth of state general fund spending, and to suspend the transfer  
3 of moneys from the general fund to the budget reserve fund and to the property tax reduction  
4 fund.

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

6 Section 1. There are hereby established within the state treasury the one-time education  
7 adequacy fund and the ongoing education adequacy fund. The commissioner of the Bureau of  
8 Finance and Management shall transfer the proceeds of the property tax reduction fund to the  
9 one-time education adequacy fund. In addition, on July first of each fiscal year or at such time  
10 that the prior fiscal year general fund ending unobligated cash balance is determined, the  
11 commissioner of the Bureau of Finance and Management shall transfer all prior year  
12 unobligated cash to the one-time education adequacy fund. Proceeds from the ongoing education  
13 adequacy fund shall be used to fund supplemental general school aid established in section 7  
14 of this Act. If the proceeds are not sufficient to fully fund the supplemental general school aid,



1 proceeds from the one-time adequacy fund shall also be used for that purpose.

2 Section 2. That § 4-5-29.2 be amended to read as follows:

3 4-5-29.2. Pursuant to S.D. Const., Art. XII, § 6, the state investment officer shall determine  
4 the market value of the education enhancement trust fund as of December 31, 2003, and each  
5 calendar year thereafter less the investment expenses transferred pursuant to § 4-5-30. The state  
6 investment officer shall ~~calculate an amount equal to four percent of that market value,~~  
7 determine the investment income available for distribution without invading principal, ~~as~~  
8 ~~eligible for distribution.~~ For the purpose of this section, the term, principal, means the sum of  
9 all contributions to the fund. Beginning with the distribution in fiscal year 2008, the market  
10 value shall be determined by adding the market value of the trust fund at the end of the sixteen  
11 most recent calendar quarters as of December thirty-first, and dividing the sum by sixteen. Upon  
12 notice of that amount by the state investment officer, the state treasurer shall transfer ~~the amount~~  
13 from ten million dollars, or so much as may be available, from the investment income on the  
14 education enhancement trust fund to the state general fund as soon as practicable after July first  
15 of the next fiscal year.

16 Section 3. That § 4-7-32 be amended to read as follows:

17 4-7-32. ~~On~~ If the commissioner of the Bureau of Finance and Management determines that  
18 the ongoing education adequacy fund established in section 1 of this Act is sufficient to provide  
19 funding to each school district in an amount equal to the supplemental base allotment as defined  
20 in section 8 of this Act per fall enrollment as defined in subdivision 13-13-10.1(2A) and on July  
21 first of each fiscal year thereafter or at such time that the prior fiscal year general fund ending  
22 unobligated cash balance is determined, the commissioner ~~of the Bureau of Finance and~~  
23 ~~Management~~ shall transfer all prior year unobligated cash up to an amount equal to ten percent  
24 of the general fund appropriations from the general appropriation act for the prior fiscal year

1 into the budget reserve fund. In no event shall the cash balance in the budget reserve fund be  
2 greater than ten percent of the general fund appropriations from the general appropriation act  
3 for the prior fiscal year.

4 Expenditures out of the budget reserve fund shall only be by special appropriation of the  
5 Legislature and shall only redress such unforeseen expenditure obligations or such unforeseen  
6 revenue shortfalls as may constitute an emergency pursuant to S.D. Const., Art. III, § 1.

7 Section 4. That § 4-7-39 be amended to read as follows:

8 4-7-39. ~~The~~ If the commissioner of the Bureau of Finance and Management determines that  
9 the ongoing education adequacy fund established in section 1 of this Act is sufficient to provide  
10 funding to school districts in an amount equal to the supplemental base allotment as defined in  
11 section 8 of this Act per fall enrollment as defined in subdivision 13-13-10.1(2A), the  
12 commissioner of the Bureau of Finance and Management shall transfer any unobligated cash  
13 remaining after the transfer into the budget reserve fund as required by § 4-7-32 into the  
14 property tax reduction fund if the amount in the property tax reduction fund does not exceed  
15 fifteen percent of the general fund appropriations in the General Appropriations Act for the  
16 previous fiscal year.

17 Section 5. That chapter 4-7 be amended by adding thereto a NEW SECTION to read as  
18 follows:

19 For the period beginning on July 1, 2009, and ending when the commissioner of the Bureau  
20 of Finance and Management determines that the ongoing education adequacy fund established  
21 in section 1 of this Act is sufficient to provide funding to each school district in an amount equal  
22 to the supplemental base allotment as define in section 8 of this Act per fall enrollment as  
23 defined in subdivision 13-13-10.1(2A), the total general fund moneys appropriated by the  
24 general appropriations act and any special appropriations may not increase from the total general

1 fund moneys appropriated by the general appropriations act and any special appropriations of  
2 the most recent fiscal year by more than one-half percent plus the index factor as defined in  
3 subdivision 13-13-10.1(3). If, during this period of time, the general fund revenues for a fiscal  
4 year exceed the allowable increase, the revenue exceeding the allowable increase shall be  
5 transferred by the commissioner of the Bureau of Finance and Management to the ongoing  
6 education adequacy fund. However, the proceeds from any tax or tax increase enacted on or  
7 after July 1, 2009, shall be excluded from this calculation, and those revenues may be  
8 appropriated through the general appropriations act even if they are in excess of the allowable  
9 increase. In addition, any moneys used to provide medical services pursuant to chapter 28-6  
10 shall also be excluded from this calculation.

11 Section 6. That § 10-13-44 be amended to read as follows:

12 10-13-44. The property tax reduction fund is hereby created in the state treasury. ~~The~~ If the  
13 commissioner of the Bureau of Finance and Management determines that the ongoing education  
14 adequacy fund established in section 1 of this Act is sufficient to provide funding to each school  
15 district in an amount equal to the supplemental base allotment as defined in section 8 of this Act  
16 per fall enrollment as defined in subdivision 13-13-10.1(2A), the Department of Revenue and  
17 Regulation shall distribute any money appropriated to the fund. ~~Effective January 1, 1996,~~  
18 ~~through December 31, 1996, the State of South Dakota may remit tax credit payments on a~~  
19 ~~monthly basis for eligible property taxpayers on or about the last day of every month. Tax credit~~  
20 ~~payments shall be sent to counties based upon information received from the counties pursuant~~  
21 ~~to § 10-13-43. In fiscal year 1997 and each year thereafter, the~~ The commissioner of finance and  
22 management may transfer moneys available from the property tax reduction fund to the general  
23 fund necessary to provide property tax relief through state aid to education.

24 Section 7. That chapter 13-13 be amended by adding thereto a NEW SECTION to read as

1 follows:

2 For the period beginning on July 1, 2009, and ending when the commissioner of the Bureau  
3 of Finance and Management determines that the ongoing education adequacy fund established  
4 in section 1 of this Act is sufficient to provide funding to each school district in an amount equal  
5 to the supplemental base allotment defined in section 8 of this Act per fall enrollment, local  
6 school districts, in addition to receiving general school aid distributed pursuant to §§ 13-13-10.1  
7 to 13-13-41, inclusive, shall also receive supplemental general school aid. General funds  
8 appropriated for supplemental general school aid pursuant to this section may not be calculated  
9 in or subject to the spending limitations set forth in section 5 of this Act.

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

12 Supplemental general school aid pursuant to section 7 of this Act shall be distributed to local  
13 school districts as follows:

- 14 (1) In fiscal year 2009, each school district shall receive a supplemental payment per fall  
15 enrollment that is equal to twenty percent of the supplemental base allotment;
- 16 (2) In fiscal year 2010, each school district shall receive a supplemental payment per fall  
17 enrollment that is equal to forty percent of the supplemental base allotment;
- 18 (3) In fiscal year 2011, each school district shall receive a supplemental payment per fall  
19 enrollment that is equal to fifty-five percent of the supplemental base allotment;
- 20 (4) In fiscal year 2012, each school district shall receive a supplemental payment per fall  
21 enrollment that is equal to sixty-five percent of the supplemental base allotment;
- 22 (5) In fiscal year 2013, each school district shall receive a supplemental payment per fall  
23 enrollment that is equal to eighty percent of the supplemental base allotment; and
- 24 (6) In fiscal year 2014, each school district shall receive a supplemental payment per fall

1 enrollment that is equal to the supplemental base allotment.

2 For purposes of this section, the supplemental base allotment equals \$874.36 in fiscal year  
3 2009, and is the previous year's supplemental base allotment increased by the index factor in  
4 subsequent years. The index factor is defined in subdivision 13-13-10.1(3).

5 Section 9. That § 13-13-10.1 be amended to read as follows:

6 13-13-10.1. Terms used in this chapter mean:

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

13 (1A) Nonresident students who are in the care and custody of the Department of Social  
14 Services, the Unified Judicial System, the Department of Corrections, or other state  
15 agencies and are attending a public school may be included in the average daily  
16 membership of the receiving district when enrolled in the receiving district. When  
17 counting a student who meets these criteria in its general enrollment average daily  
18 membership, the receiving district may begin the enrollment on the first day of  
19 attendance. The district of residence prior to the custodial transfer may not include  
20 students who meet these criteria in its general enrollment average daily membership  
21 after the student ceases to attend school in the resident district;

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

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

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

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

6 (2A) "Fall enrollment," the number of kindergarten through twelfth grade students enrolled  
7 in all schools operated by the school district on the last Friday of September of the  
8 previous school year minus the number of students for whom the district receives  
9 tuition, except nonresident students who are in the care and custody of a state agency  
10 and are attending a public school and students for whom tuition is being paid  
11 pursuant to § 13-28-42.1, plus the number of students for whom the district pays  
12 tuition. When computing state aid to education for a school district under the  
13 foundation program pursuant to § 13-13-73, the secretary of the Department of  
14 Education shall use either the school district's fall enrollment or the average of the  
15 school district's fall enrollment and the school district's fall enrollment from the prior  
16 year, whichever is higher;

17 (2B) "Current fall enrollment," the number of kindergarten through twelfth grade students  
18 enrolled in all schools operated by the school district on the last Friday of September  
19 of the current school year minus the number of students for whom the district  
20 receives tuition except nonresident students who are in the care and custody of a state  
21 agency 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;

24 (2C) "Small school adjustment," calculated as follows:

- 1 (a) For districts with a fall enrollment of two hundred or less, multiply 0.2 times  
2 \$4,237.72;
- 3 (b) For districts with a fall enrollment of greater than two hundred, but less than  
4 six hundred, multiply the fall enrollment times negative 0.0005; add 0.3 to that  
5 result; and multiply the sum obtained times \$4,237.72;
- 6 (3) "Index factor," is the annual percentage change in the ~~consumer price index for urban~~  
7 ~~wage earners and clerical workers as computed by the Bureau of Labor Statistics of~~  
8 ~~the United States Department of Labor for the year before the year immediately~~  
9 ~~preceding the year of adjustment or three percent, whichever is less~~ total general fund  
10 revenues received by the state for the year before the year immediately preceding the  
11 year of adjustment;
- 12 (4) "Per student allocation," for the first school fiscal year ~~2008 is \$4,528.80~~ following  
13 the effective date of this section, it is the previous fiscal year's per student allocation  
14 increased by the index factor plus the supplemental base allotment as defined in  
15 section 8 of this Act. Each school fiscal year thereafter, the per student allocation is  
16 the previous fiscal year's per student 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 and  
21 (c) The payment distributed pursuant to § 13-13-80, if applicable;
- 22 (6) "Local effort," the amount of ad valorem taxes generated in a school fiscal year by  
23 applying the levies established pursuant to § 10-12-42;
- 24 (7) "General fund balance," the unreserved fund balance of the general fund, less general

1 fund exclusions plus, beginning with transfers made in fiscal year 2001, any transfers  
2 out of the general fund for the previous school fiscal year;

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

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

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

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

10 For fiscal year 2008, the maximum allowable percentage is one hundred percent; for  
11 fiscal year 2009, eighty percent; for fiscal year 2010, sixty percent; for fiscal year  
12 2011, forty percent; for fiscal year 2012 and subsequent fiscal years, twenty-five  
13 percent. However, the general fund base percentage can never be less than twenty-  
14 five percent;

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

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

24 Section 10. Section 9 of this Act is effective when the commissioner of the Bureau of

1 Finance and Management determines that the ongoing education adequacy fund established in  
2 section 1 of this Act is sufficient to provide funding to each school district in an amount equal  
3 to the supplemental base allotment as defined in section 8 of this Act per fall enrollment as  
4 defined in subdivision 13-13-10.1(2A).

5 Section 11. Beginning one year following the date when the commissioner of the Bureau of  
6 Finance and Management determines that the ongoing education adequacy fund established in  
7 section 1 of this Act is sufficient to provide funding to each school district in an amount equal  
8 to the supplemental base allotment as defined in section 8 of this Act, all existing excess tax  
9 levies authorized pursuant to § 10-12-43 are hereby revoked, and no new excess tax levies  
10 pursuant to § 10-12-43 may be imposed for a period of one year.