



2010 Legislative Session

The following legislation includes legislation ASBSD followed during the 2010 Legislative Session and has been signed into law by Gov. Rounds.

SCHOOL FUNDING

HB 1020 – Transfer of Stimulus SPED Funds

Districts would be able to transfer local funds in an amount not greater than 50 percent of an increased IDEA allocation to any other district fund, provided the transferred money is used in accordance with the Elementary and Secondary Education Act and expended before June 30, 2010.

HB 1021 – Spending Flexibility for IDEA Funds

Provides schools with additional leeway in spending IDEA money, allowing districts to receipt federal money to the capital outlay fund in order to purchase equipment that can be used for special education purposes. Items purchased using the new flexibility must be approved by the Department of Education.

HB 1181 – Eliminate Consolidation Incentives

Repeals consolidation incentives for consolidations that take place following July 1, 2010.

HB 1248 – Formula Revision: On-time funding for growing districts

Changes the state aid calculation for growing districts, allowing the calculation to be based on current fall enrollment, meaning growing districts would be paid for students in their district in the current year. Maintains declining enrollment aid based on the average fall enrollment of the two previous years.

NOTE: Because this legislation changes the fall enrollment counts effective next year, districts will need to pay special attention when creating budgets for FY11. In particular, districts that experience year-to-year fluctuations in enrollment may have a lower state aid fall enrollment headcount than was previously expected prior to the passage of HB 1248. Refer to the chart below for an example.

CALCULATING FY11 STATE AID BASED ON HB 1248					
	September 2008 Headcount (FY09)	September 2009 Headcount (FY2010)	September 2010 Headcount (FY11)	FY 11 State Aid Fall Enrollment	
				Old Law	HB1248
Declining Enrollment	600	590	580	595	595
Increasing Enrollment	600	610	620	610*	620
Fluctuating Enrollment	600	610	600	<u>610</u>	605

*Under old law, increasing enrollment districts would also have received a one-time payment equivalent to 5 additional students.

SB 22 – Per-student Funding Freeze

This legislation fixes per-student state aid at \$4804.60 for FY11, the same amount that was made available in FY10. The legislation does not change the index factor language in state law, meaning that future increases are supposed to increase by “3 percent or the CPI-W, whichever is less.” The legislation also freezes per-student special education funding.

SB 183 – Modifications to Small School Adjustment Calculation

Exclude students served in residential treatment facilities from the calculation of the small school adjustment in the state aid to general education formula.

STUDENT ISSUES

HB 1160 – Home-Schooled Students to Participate in the Opportunity Scholarship
Extends the Opportunity Scholarship to students receiving alternative instruction if the student earns a 28 or above on the ACT and meets the test's college readiness benchmarks. The provisions are effective July 1, 2013.

HB 1190 – Revise Opportunity Scholarship Requirements
Changes the opportunity scholarship eligibility requirements to match updated graduation requirements adopted by the state board of education.

SB 88 – Educational Compact for Military Children
Allows South Dakota to join multi-state compact that provides for easier transitions for children of military families.

SB 156 – Notification to SDHSAA Regarding Adult and Juvenile Court Proceedings
This bill requires a student to be expelled from extracurricular activities if he or she is involved in a "suspended adjudication of delinquency" for the possession, use or distribution of controlled substances. The new requirement is in addition to several drug-related court outcomes that trigger a suspension.

The law also requires the judicial system to provide schools with a list of adults aged 18-21 that are the subject of court determinations related to drugs. Once the school receives the list, it becomes the responsibility of schools to notify the South Dakota High School Activities Association if the list contains the name of any student participating in extracurricular activities.

SCHOOL GOVERNANCE AND ADMINISTRATION

HB 1023 – Make-up Time for School Districts
States that schools will not have to make-up days for school time lost to weather, disease or emergency, provided the district has already met the minimum number of hours in a school term.

HB 1046 – Procurement and Bidding Procedure Reforms
Reclassification of the state's procurement laws, including ones that apply to schools. The law repeals four sections of law, and codifies existing law into a new organizational structure divided into separate sections that that: a) apply to all contracts b) apply to public improvement projects c) apply only to local governments d) apply only to state government. Also adds language that clarifies competitive sealed bids and emergency procurement procedures. Sole-source contracts must now be documented.

HB 1108 – Fund Balance Flexibility
Allows the maximum allowable general fund balance to remain at 40 percent through FY14. In FY15, the fund balance cap is 25 percent. The law also updates the "hard cap" in state law to the general fund balance as of June 30, 2011.

HB 1129 – Reinstatement of Expelled Students
Allows for suspended students to be reinstated prior to their conclusion of an expulsion if the student meets specified conditions established by the local school board.

SB 63 – Race to the Top Application
Provides for the establishment of a state-chartered public residential high school that will serve American Indian students. The legislation allows the state to apply the federal Race to the Top funds, and the chartering authority expires if the federal grant is not received.

SB 155 – Review of Unfunded Administrative Rules
Suspends, until the following legislative session, any administrative rule applied to local governments that are determined to have a fiscal impact greater than \$10,000.

TAXATION

SB 67 – Annual Cutler/Gabriel Adjustment

Yearly downward adjustment of school district general fund levies. For FY11: Ag, \$2.554; Owner-occupied - \$3.965; Commercial - \$8.491.

PUBLIC EMPLOYEES AND SCHOOL STAFF

HB 1005 – Revisions to Laws Relating to Public Employees

Cleans up several laws relating to state employees, but also contains subtle revisions to laws which are applicable to schools, including those involving employment of individuals serving in the armed forces.

SB 24 – Teaching Standards and Evaluations

Requires that schools complete teacher evaluations for new teachers at least once a year and for continuing-contract teachers at least once every two years. Also provides for the creation of a model teacher evaluation, but the instrument won't be mandated.

By July 1, 2011, the Department of Education will establish administrative rules for minimum professional performance standards that will apply to teachers in South Dakota. A workgroup of educators will assist in the development of the standards. Local evaluation procedures must be based on the standards, require multiple measures, serve as the basis for professional growth, and include a plan of assistance for teachers who do not meet the district's performance standards.

GOVERNMENT TRANSPARENCY

SB 104 – Open Meetings and Open Records Revisions

Non-confidential information that is related to a meeting agenda item and distributed to school board members in advance of a board meeting must be made available for public, either in a district's web site or in the business office, at least 24 hours in advance of the meeting. Information already allowed to remain private under current open records laws, including notes that express opinion used to recommend or develop policy, will continue to be exempted from disclosure. The bill also clarifies that only committees, subcommittees, task forces, and advisory groups that are both created by policy and have the authority to make final decisions are required to meet in open session. Advisory groups that don't make final decisions are further required to provide final recommendations during a regular board meeting, and the board must delay action on the item until the next board meeting.

NOTE: This change to open meetings and open records will be the subject of an ASBSD issue brief distributed at a later date.

SB 133 – Open Meeting Complaint Procedure

Allows the Attorney General to review open meeting complains in addition to the state's attorney.

STATE BUDGET

SB 47 – State Maintenance of Effort Transfer for IDEA

Allows the state to use unspent money from the special education extraordinary cost fund to meet federal special education maintenance of effort requirements.

SB 49 – Mid-year State Appropriations Adjustments

Annual revisions to FY10 state appropriations.

SB 196 – State Appropriations Bill

Appropriations bill for FY11. The legislation eliminates all state funding for regional education service agencies and enacts a \$300,000 cut to technology services provided by the state.

SOUTH DAKOTA RETIREMENT SYSTEM

SB 18 – Retire-Rehire Revisions

Makes wholesale changes to the return-to-work provisions, better known as "retire-rehire." Creates a mandatory 3-month waiting period, reduces the lifetime benefit of retired-rehired employees, and requires the employer to pay a fee to the retirement system if an employee retires than is rehired by any employer using the South Dakota Retirement System. Law is effective April 1, 2010.

NOTE: This change to return-to-work laws will be the subject of an ASBSD issue brief distributed at a later date.

SB 19 – Elimination of Optional Spouse Protection from SDRS

Increases contributions related to the optional spouse protection program within the South Dakota Retirement System and to prohibit any new enrollments in the program.

SB 20 – COLA Adjustment from SDRS

Reduces the cost of living adjustment for retirees receiving benefits from the South Dakota Retirement System. Reduces benefit to be between 2.1 and 3.1 percent, based on the CPI-W.

SB 21 – SDRS Investment

South Dakota Retirement System funds must be invested for the exclusive benefit of the members in the system.

ELECTIONS AND ELECTED OFFICIALS

SB 101 – Pilot School Board Election

Allows the Sioux Falls School District to conduct a pilot school board election involving electronic voter books and precinctless voting.

MISCELLANEOUS

HB 1022 – DOE Statutory Clean-up

Clean-up legislation removing outdated terms in South Dakota codified law.

HB 1024 – Digital Teacher Certificates

Removes the requirement for school districts to have teaching certificates on file. The Department of Education now maintains all certificates in an online database, which districts can use to verify certification in lieu of having a copy on file.

HB 1104 – Statute of Limitations for Liability Relating to Childhood Sexual Abuse

Adds to statute of limitations to prohibit civil liability against any entity or individual, other than the person committing the act, once a person reaches age 40.

SB 25 – Repeal Aid for Transfers Involving Districts Not Receiving State Aid

Clean-up language of outdated statutes that govern state aid for students who transfer between district a district that receives state aid and a district that does not receive state aid.

SB 50 – ARRA Bonding Authority

Adds language to state law allowing the state and local governments to take advantage of bonding authority granted under the American Recovering and Reinvestment Act.