



## 2011 Legislative Session

The following summary includes legislation ASBSD followed during the 2011 Legislative Session.

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### SCHOOL FUNDING LEGISLATION

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#### HB1003 – Unfunded mandate review

Further clarifies laws previously enacted that dictate how the Legislature's Interim Rules Review Committee can nullify an administrative rule if the rule imposes unreasonable costs on a local unit of government. In addition to eight previously established criteria, the bill adds a provision that the committee may nullify a rule that imposes "more than nominal costs" upon a local unit of government.

#### HB1110 – One-time money for schools

Appropriates \$12.2 million for one-time payments to schools based on fall enrollment. Based on current enrollment numbers, the figure equates to approximately \$97 per-student for FY12. See also, SB 152.

#### HB1249 – State aid to special education carryover

Authorizes a carryover of unspent state aid to special education from FY11 to FY12.

#### SB111 – Extends capital outlay flexibility

Extends capital outlay flexibility, which was initially granted two years ago, through 2014 (originally, the law was set to expire after the FY12 school year). The law allows schools to use up to 45 percent of revenue generated by the district's 2008 capital outlay levy for some transportation, insurance, energy and utility costs.

#### SB133 – Sparsity proration

Divides available appropriations for sparsity payments among all eligible schools if the Legislature doesn't appropriate enough money to fully fund the formula. Because lawmakers appropriated \$1.6 million for FY12, down from \$1.8 million in the current year, it is likely most districts receiving sparsity payments next year will experience a reduction from the current year. See also, HB 1208.

#### SB192 – Per-Student special education funding freeze

Establishes the per-student allocation for special education students. Per-student funding for FY12 will be the same as the current year.

#### SB200 – Repeals of fund balance caps and penalties

Repeals portions of law that establish maximum general fund balance levels and also removes the financial penalties for having an excess general fund balance.

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### STUDENT ISSUES

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#### HB1175 – "Jump-start" scholarship

Creates a new college scholarship program for high school students who graduate in three years or less. The scholarship is funded by directing to the Board of Regents the state aid a school district would have received if the student was enrolled in the classes for a fourth year of high school.

### SB149 – Concussions

Legislation aimed at reducing harmful effects of youth concussions. The new law requires educational efforts, preventative measures, and establishes return-to-play guidelines. Also contains liability protection for schools.

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## SCHOOL GOVERNANCE AND ADMINISTRATION

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### HB1133 – Approval of alternative instruction application

States that a student is released from compulsory attendance at the time the family files an application for alternative instruction with the school district. School board action will no longer be required to excuse the child. The bill does not change the process to revoke an alternative instruction application.

### HB1208 – Repeal of K-12 mandates; Sparsity fund balances

Makes several small changes to state law, and most are intended to reduce state mandates on schools. As a result: schools will no longer be able to reimburse teachers for the cost of background checks; bus drivers will only need to receive training once every five years, and the bus drivers must pay for the cost of their own training; and schools will be permitted to correspond with parents via email, rather than postal mail, if a parent opts-in to receiving electronic communication. The bill also changed the criteria used to determine whether a school district qualifies for sparsity aid; the district's fund balance holdings will no longer disqualify a district from eligibility.

### SB77 – Bussing pick-up points

Regulates the transportation of open-enrolled students. The law requires the school boards from both the sending and receiving school district to annually agree upon pick-up locations for open-enrolled students that live within an incorporated municipality. If two school boards cannot agree on pick-up points, locations will be determined by the Secretary of Education.

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## TAXATION

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### HB1001 – Assessment of agricultural land

Part of the ongoing effort to adjust taxation based on ag income value, this bill gives a task force the authority to suggest data that may be incorporated into the formula that determines ag valuation.

### SB102 – Property tax assessment

Repeals an outdated assessment provision has to do with the directors of equalization establishing assessed valuation for school districts.

### SB152 – Local school district general fund levies

Establishes school district general fund tax levies for FY12 for various classes of property. Enacts a levy freeze for FY12, allowing for a portion of the proposed 10 percent cut to the per-student allocation to be avoided. Effective in FY13, the bill also adjusts the state and local responsibility to fund the K-12 formula, decreasing the state's share from approximately 56 to 53 percent, and increasing the local share from approximately 44 to 47 percent. Levies for the FY12 school year are: \$8.491 (commercial); \$2.388 (ag); and \$3.965 (owner-occupied). Sets the per-student allocation for FY12 at \$4,389.95.

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## PUBLIC EMPLOYEES AND SCHOOL STAFF

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### HB1070 – Employment of certified school counselors

Starting in the 2016-17 school year, any person employed as a "school counselor" must be certified.

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## GOVERNMENT TRANSPARENCY

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### SB101 – Penalty for denying access to public records

Establishes a civil penalty for denying access to public records. A penalty of \$50 per day for delaying the release of public records may be awarded in a civil action if a custodian of the record acts unreasonably and in bad faith after being told by the Office of Hearing Examiners to disclose the record.

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## STATE BUDGET

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### HB1251 – General appropriations bill

Appropriate money for the ordinary expenses of the legislative, judicial, and executive departments of the state, the expenses of state institutions, interest on the public debt, and for K-12 schools.

### SB190 – Revise general appropriations act

Revise the General Appropriations Act for fiscal year 2011.

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## SOUTH DAKOTA RETIREMENT SYSTEM

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No bills are filed under this category.

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## ELECTIONS AND ELECTED OFFICIALS

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### HB1114 – Elected official conflict of interest

Revises the conditions under which contracts with local officials are permitted. In general, a school board member is prevented from entering into a contract with a school district, but there are several exemptions. This bill adds an additional exemption, permitting local officials to contract with the entity they govern in cases when only one competitive bid is provided and all other mandated bidding procedures have been followed.

### HB1173 – Notification of election dates

Requires election officials to notify the Secretary of State about the time and place of any election within 15 days of setting the time and place of the election.

### SB130 – Secretary of State emergency relief in elections

Allows the Secretary of State to conduct local elections if a local election is cancelled due to an emergency. If an election is cancelled, the party holding the election must sign an emergency declaration and deliver it to the Secretary of State, and then the state's top election official has the option of conducting the election.

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## MISCELLANEOUS

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### HB1080 – Deadline to file annual reports

Extends the deadline to file school district annual reports with the Department of Education from Aug. 15 to Aug. 30.

### HB1081 – Accounting manual

Eliminate the requirement that schools purchase an accounting manual from the Auditor General's office.

### HB1093 – Revision of reorganization criteria

This section of law changes an exemption to South Dakota's mandatory consolidation law that was originally passed for the Elk Mountain School District. It removes language relating to requiring schools to contract for K-12 with another district in another state, allowing Elk Mountain the option to provide education through distance courses.

### HB1228 – Technical institutes

Increase the bonding limit for the four technical institutes.

### SB8 – Update to fund balance laws

Revise certain provisions related to school district unreserved fund balances. Updates fund balance laws to comply with new GASB standards. Creates a "general fund reserves" definition that will count as an exclusion to a district's general fund balance. Exclusions include money that is "not spendable" and other funds that have constraints on how they can be used.

SB65 – Non-public schools in SDHSAA

Allow nonpublic schools accredited by certain accrediting agencies other than the Department of Education to become members of the South Dakota High School Activities Association.

SB68 – Investment of public funds

Allows local governments to invest in a wider range of financial products, including local bonds or those issued by a state bonding authority.

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LEGISLATION NOT PASSED DURING THE 2011 LEGISLATIVE SESSION

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At the request of some members, we have added a portion to the legislative summary that recaps bills that did not survive. None of following measures will become law.

HB1048 – Civil fines and penalties -- Killed

Adds clarification that certain fines collected by Game, Fish and Parks must be distributed to schools.

HB1055 – Volunteer emergency responders – Killed

Prohibit employers from restricting employees who are volunteer emergency responders in their response to emergencies during working hours.

HB1077 – Performance standards for principals -- Killed

Establish performance standards for principals, to require an annual evaluation of principals, and to provide for the development of a model evaluation instrument.

HB1078 – Post meeting minutes online -- Killed

Allows local government to post meeting minutes online rather than in newspapers.

HB1091 – Mandated reorganization repealed - Killed

Repeal the provision requiring certain school districts with a fall enrollment of less than one hundred to reorganize. See also, HB 1229.

HB1095 – Sexual contact a felony -- Killed

Prohibits sexual contact between school employees and students and makes a violation of the law a felony.

HB1098 – Cropland taxable value - Killed

Revises the limitation on the increases and decreases that may be made to the total taxable value of cropland and non-cropland. Currently, the limit is 10 percent per year. This legislation creates more flexibility depending on whether the county is near its full agricultural income value. The ranges would be between 10 and 16 percent.

HB1103 – Zero-based budgeting for state agencies - Killed

Requires state agencies to use zero-based budgeting. Zero-based budgeting is typically more stringent, requiring every expenditure to be justified. The Legislature would require at least one agency per year to prepare a zero-based budget, and will require all agencies to do it once every 10 years

HB1106 – Time period before action-- Killed

Requires that 24 hours must pass between the time the Appropriations Committee releases their version of the general appropriations bill and the time when it can be voted on in the House or Senate.

HB1107 – Limit state government spending-- Killed

Limits state government spending to 99 percent of revenue generated, provides left-overs to K-12 schools.

HB1116 – Increase state aid to education -- Killed

Revise the state aid to education formula and to make an appropriation; a placeholder piece of legislation that appropriates \$1 to the Department of Education for education enhancement.

HB1117 – Option to record executive session - Killed

Permissive legislation that would allow local governments to record executive sessions. The recordings would not be public records.

HB1131 – Food tax elimination – Killed

Eliminates the food tax, subsequently increasing taxes on all other goods to make up for the shortfall.

HB1135 – Boilers in public buildings – Killed

Require certification for operators of boilers in public buildings.

HB1140 – School safety plans – Killed

Requires the development of school safety plans and to require the conduct of lockdown drills in accredited schools.

HB1147 – Taxation of rural electric companies - Killed

Revises the taxation of rural electric companies with respect to receipts collected for compliance with certain environmental laws.

HB1150 – Enrollment averaging – Killed

Eliminates the two-year enrollment averaging for school districts with a declining enrollment. An approximate \$5.1 million cut to K-12.

HB1153 – Ban on adoption of common core history standards - Killed

Bans the State Board of Education from adopting Common Core academic standards in history, should they ever be developed.

HB1168 – Public records - Killed

Revise certain provisions regarding the public records open to inspection and copying.

HB1170 – Historical documents and speeches - Killed

Require schools to provide instruction on certain historical documents and speeches that are already covered in South Dakota's curriculum standards.

HB1183 – Discrimination based on political activity - Killed

Provides that employees of governmental entities cannot be discriminated against based on political affiliation or activity.

HB 1187 – Study of sales tax exemptions - Killed

Provide for an interim study of the exemptions provided for the sales, use, and excise taxes imposed by the state.

HB1191 – Schools offering licensed day care – Killed

Authorize school districts to provide licensed day care facilities on or off school district property.

HB1197 – Partisan school elections - Killed

Require the party affiliations of candidates for municipal and school elections to be printed on the ballot. ASBSD opposition based on standing position that school boards function best in a non-partisan environment.

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HB1203 – Transfer funds from capital outlay - Killed

Allow school districts, for a period of two years, to transfer funds from the capital outlay fund to the general fund under certain circumstances. If the per-student allocation is reduced, schools are allowed to transfer the amount lost by the reduction in per-pupil aid from the capital outlay fund to the general fund to pay operational expenses of the school district. Bill lasts through FY13.

HB1204 – Employer firearm policies - Killed

Prohibit businesses and employers from establishing certain policies against the ability of an invitee or employee to store firearms and ammunition in a locked motor vehicle parked on the premises.

HB1205 – EduJobs money -- Killed

Orders the state to distribute the \$26.3 million in EduJobs money to schools in addition to general K-12 aid. Would reverse Gov. Rounds' decision relating to the EduJobs money, which essentially let the state keep the revenue to prop up the state budget and reserve funds.

HB1211 – Curriculum on history of organized labor - Killed

Requires DOE to develop content and curriculum for teaching about the history of organized labor. Does not mandate schools use the resources.

HB1213 – Limit state government spending - Killed

Limit increases in state government spending to 3 percent or the rate of inflation, whichever is less.

HB1222 – Increase taxes temporarily -- Killed

Temporarily increase the state sales and use tax to fund education and other budget needs and to declare an emergency. Increases the sales tax from 4 to 5 percent, effective April 1, 2011 to Nov. 1, 2011.

HB1229 – Mandatory reorganization repealed- Killed

Repeal the requirement for a school district with an enrollment of one hundred or fewer students to reorganize. Same as HB 1091, but HB 1229 was sponsored by the governor.

HB1236 – Legislator salaries – Killed

Provide for a temporary decrease of legislator salaries and to make certain annual adjustments to legislator salaries.

HB1239 – Increase distribution from trust funds - Killed

Increases the distributions from the education enhancement trust fund from 4 to 7 percent of the fair market value of the fund; the additional transfer from the education enhancement trust fund would be approximately \$10 million per year, depending on the value of the fund.

HB1243 – Local school district general fund levies - Killed

A governor's bill. Will reduce school district general fund property tax levies commensurate with the 10 percent proposed cuts in the per-student allocation. Turns the Governor's proposed cuts into a \$60 million cut to K-12 schools by reducing the amount of local property taxes schools can collect

HB1250 – Revisions to the opportunity scholarship - Killed

Revise certain provisions regarding the South Dakota opportunity scholarship program. Repeals high school course requirements to qualify for the opportunity scholarship, replacing them with a simplified model asking for 4 units of language arts, three social studies, four math, four science, two world language and one fine arts.

SB54 – Criminalize exploiting minors – Killed

Criminalize certain acts exploiting minors and to provide a penalty therefor.

SB60 – Repeals reduction in state aid - Killed

Repeal the reduction in state aid to general education funding for any school district that receives proceeds from the Commission on Gaming.

SB63 – Repeals fund balance restrictions -- Killed

Repeals fund balance restrictions and penalties. Tabled because SB 200, a governor's bill that accomplishes the same goal, passed.

SB 72 – Changes how kindergarten students are counted -- Killed

Students who attend kindergarten part-time will be pro-rated for the school's enrollment count. Modified to include a delayed implementation to soften the financial impact of schools.

SB78 – Repeals prohibitive measures on assessing property – Killed

Repeal the provision that prohibits the use of federal income tax credits when assessing certain property.

SB85 – Small school adjustment for open-enrolled students – Killed

Schools would not receive small school adjustment funding for students who open-enrolled into the district. Holds sparse school districts harmless from the change.

SB92 – Capital outlay flexibility -- Killed

Extends until 2015 the capital outlay flexibility that allows schools to use capital outlay funds for certain transportation, insurance, energy and utility costs. Also allows schools to use capital outlay to purchase group health insurance, and increases the maximum amount of that can be spent from 45 to 60 percent of capital outlay revenue

SB97 – Local boards equalization – Killed

Revise the membership of certain local boards of equalization. Shifts the responsibility of local boards of equalization from municipalities to school districts.

SB104 – Mandated bullying policy - Killed

Requires each school district to develop a policy to prohibit bullying that meets certain requirements.

SB126 – Holds per-student allocation steady - Killed

Uses \$20 million from the Education Enhancement Trust Fund hold the per-student allocation at current levels for two years. Schools "lend" the state \$10 million per year in 2012 and 2013, then get paid back in 2014-16. Prohibits opt-outs for two years.

SB134 – Reduction in state regulations - Killed

Provides for the reduction of state regulations. Placeholder bill.

SB137 – Adoption of anti-hazing policy – Killed

Require school districts and university institutions to adopt a policy prohibiting hazing.

SB154 – Increase taxes -- Killed

Provide funding for education by temporarily increasing the state sales and use tax. Increases the sales tax by a half-cent in order to specifically fund K-12 education; the additional half-penny sunsets on July 1, 2012.

SB164 – Traffic fines on state highways - Killed

Revise certain provisions regarding the regulation of traffic on municipal streets. An attempt to reverse the South Dakota Supreme Court's decision that found municipalities are illegally enforcing municipal ordinances on state highways. Would reduce funding to K-12 schools.

SB165 – Cut small school adjustment, fund ESAs - Killed

Reduce by ten percent the small school adjustment in the state aid to education formula, and to appropriate the money saved by the state as a result of the reduction to fund the education service agencies.

SB166 – Repeal Sales Tax Exemptions – Killed

Repeal certain sales tax exemptions relating to agricultural machinery parts, repairs, and maintenance.

SB169 – Federal school lunch program - Killed

Revise certain requirements relating to participation by tribal schools in the federal school lunch program.

SB174 – Increase sales tax – Killed

Temporarily increase the state sales tax and use tax to fund the state budget shortfall and to declare an emergency. Increases the sales tax by 1 cent during the months of June, July and August. The revenue stream sunsets in Sep. 2014.

SB185 – Per-student allocation cut - Killed

Gov. Dugaard's legislation to cut the per-student allocation to \$4324.14.

SB186 – Pro-rate payments to sparse school districts - Killed

Revise certain provisions related to distribution of funds to sparse school districts. Allows the legislature to appropriate a fixed dollar for sparsity payments - if more schools qualify than the state estimates, then each school is given a pro-rata share. Eventually passed in SB133.

SB197 – Residential treatment facilities - Killed

Enhance education for students in certain residential treatment facilities.

SB199 – Fund K-12 using property tax reduction fund - Killed

Appropriate money from the property tax reduction fund for the enhancement of human capital. Appropriates \$20 million for K-12 schools and money for Medicaid providers and state employees. Uses the property tax reduction fund as a source of revenue