

AN ACT

ENTITLED, An Act to revise certain outdated and obsolete provisions regarding the Department of Education.

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

Section 1. That § 13-3-48 be amended to read as follows:

13-3-48. The secretary of the Department of Education shall prepare and submit for approval of the South Dakota Board of Education a standards revision cycle and content standards for kindergarten through grade twelve.

Section 2. That § 13-3-51 be amended to read as follows:

13-3-51. The secretary of the Department of Education shall establish a uniform system for the gathering and reporting of educational data for the keeping of adequate educational and financial records and for the evaluation of educational progress. Any school district or school seeking state accreditation shall submit enrollment data, personnel data, and shall verify all state and federal standards for accreditation and approval of schools, including those related to safety and educational equity of the school district or school by October fifteenth of each year. If the due date falls on a weekend or state holiday, the due date is the next business day following the scheduled due date. An annual written evaluation of the educational progress in the state and in each school district shall be submitted to the Legislature and shall be made available in each school district to the general public. The South Dakota Board of Education may promulgate rules pursuant to chapter 1-26 to further define the data required pursuant to this section.

Section 3. That § 13-5-14 be amended to read as follows:

13-5-14. For the purposes of this title, a school district which overlaps boundaries of a county is considered to be in that county where the majority of the children belonging to the district reside as determined by the fall submission of student enrollment data, and when once established, the

district shall so remain until the boundaries thereof shall be changed under other provisions of this title. However, any disputes arising under the provisions of § 13-5-1 or 13-5-2, or this section, shall be determined by the South Dakota Board of Education.

Section 4. That § 13-5-17 be amended to read as follows:

13-5-17. Each school district name and number and a description of the district's boundaries shall be recorded in the office of the secretary of the Department of Education. The secretary shall refuse to record as the name of any district a name which has been previously chosen and recorded by another district in the same county.

Section 5. That § 13-6-2 be amended to read as follows:

13-6-2. It is the policy of the State Legislature:

- (1) That school districts exist for the purpose of operating a school or schools to provide the people of each local community adequate opportunity to avail themselves of a free public elementary and secondary education program. Each school district should operate a school or schools providing for elementary and secondary education programs;
- (2) That it is essential for all children and youth in the state to have access to an adequate educational program in a public school and since many existing school districts do not contain sufficient taxable property to provide educational opportunities equal in comparison with the educational opportunities available in many other school districts in the state, the state board is responsible for school district reorganization which will enable each school district to offer an educational program of sufficient scope and quality to adequately expand and develop the interests and abilities of its people; and
- (3) That each proposed school district shall meet the requirements and standards for school districts as provided by this chapter and shall contain sufficient human and material resources to support an education program which will meet the current minimum

requirements for accreditation as adopted by the South Dakota Board of Education.

Section 6. That § 13-6-59 be amended to read as follows:

13-6-59. If a joint school district is created, the county officials shall comply with the orders and directives of the board of county commissioners of the county having jurisdiction over the school district so created. A school district shall be considered to be under the jurisdiction of the board of county commissioners of the county where the major portion of the children listed on the fall submission of student enrollment data of the school district area are located.

Section 7. That § 13-13-37 be amended to read as follows:

13-13-37. Each school district shall submit its final financial report to the secretary of the Department of Education before August first for the school fiscal year ending June thirtieth of that year. The final financial report shall detail total expenditures and total revenues.

The financial report shall be submitted on forms prescribed by the secretary. The provisions of this section are subject to the provisions of § 13-8-44. The total general fund expenditures may not include any capital outlay fund expenditures as defined in § 13-16-6, except for any school district that receives money under Title VIII of the Elementary and Secondary Education Act. However, no school district that receives money under Title VIII of the Elementary and Secondary Education Act may expend general fund money for new construction.

Section 8. That § 13-13-39 be amended to read as follows:

13-13-39. The Department of Education shall apportion the foundation program funds to each eligible school district and shall prepare such a list of apportionments to be posted publicly in electronic format.

The state auditor shall issue the warrant to each school district when the apportionment voucher is presented for the total amount of the foundation program funds each school district is to receive, subject to any reduction necessitated by the issuance of a warrant to the health and educational

facilities authority as provided below.

If the Department of Education receives written notice from the Health and Educational Facilities Authority of a pledge of foundation program funds or other amounts under Title 13 by a school district pursuant to a lease, resolution, certificate, or other arrangement with the authority or any bond, certificate, note, or other obligation issued to or in connection with a program sponsored by the Health and Educational Facilities Authority for school districts in anticipation of funds under Title 13, the Department of Education shall deduct from amounts otherwise due to a school district for the current month and the next two succeeding months under the apportionment of foundation program funds or other amounts under Title 13 an amount sufficient to pay rentals, bonds, notes, certificates, or other amounts then due but unpaid and the amount so deducted shall be paid to the authority or any financial institution designated by the authority acting as a fiduciary in connection therewith, all as specified by the authority. A record of the amount so pledged as security or otherwise payable to the authority shall be filed with the state auditor.

The state auditor shall issue a warrant to the authority for the deducted amount specified by the Health and Educational Facilities Authority as provided by this section. No pledge by a school district of foundation program funds or other amounts under Title 13 for any other purpose may be permitted and if made is voidable at the election of the Health and Educational Facilities Authority.

Section 9. That § 13-16-2 be amended to read as follows:

13-16-2. All school district funds shall be placed in funds as defined in § 4-4-4.

Section 10. That § 13-16-19 be amended to read as follows:

13-16-19. The school board shall prescribe policies and procedures governing the stewardship of agency funds consistent with provisions of this title. The school board may designate an employee of the school district to be in charge of each agency fund. The employee designated, if other than the business manager, shall be placed under surety bond in the amount which it is estimated will be in

the hands of such employee at any one time during the school fiscal year. The school district shall pay the premium on such surety bond.

Section 11. That § 13-16-20 be amended to read as follows:

13-16-20. The employee in charge of an agency fund may issue checks for disbursements from the fund. Unless required by the school board, such disbursements do not require prior approval by the board nor signature of the presiding officer of the board or the business manager. The employee designated shall keep accurate records of all receipts, expenditures, and balances of the agency fund; issue receipts in duplicate for all money received, except money received from the sale of printed serial number admission tickets; approve the expenditures, and pay all claims upon the presentation of an itemized verified claim. A memorandum record shall be kept on file for sale of all serially numbered tickets by events, which record shall be signed by the person selling such tickets. However, the employee may destroy any record that the records destruction board, acting pursuant to § 1-27-19, declares to have no further administrative, legal, fiscal, research, or historical value.

Section 12. That § 13-16-21 be amended to read as follows:

13-16-21. The employee of the school district designated by the board to be in charge of an agency fund shall monthly and annually submit reports to the school board. The fund shall be audited as part of the regular audit of the school district.

Section 13. That § 13-16-26 be amended to read as follows:

13-16-26. All or any part of a surplus of any school district fund, except the capital outlay fund provided by §§ 13-16-6 to 13-16-9, inclusive, and the special education fund provided by § 13-37-16 may be transferred to any other school district fund. Only a school district with a plan for reorganization that has been approved by the voters pursuant to § 13-6-47 after July 1, 2007 may transfer within twelve months before the effective date of the reorganization all or any part of a surplus in the capital outlay fund to the general fund. Any unused portion of money that has been

transferred into the special education fund may be transferred from the special education fund within the current fiscal year to the fund from which it originated. All or any part of any school district fund may be loaned to any other school district fund for a term not to exceed twenty-four months.

Section 14. That § 13-16-26.3 be amended to read as follows:

13-16-26.3. Notwithstanding any other provision of this chapter, if two or more school districts consolidate, for one year after the effective date of the consolidation pursuant to § 13-6-61, the newly formed school district may transfer any money from its general fund to its capital outlay fund. However, any funds transferred pursuant to this section may only be spent for one-time costs related to the consolidation. Any funds transferred to the capital outlay fund, but not lawfully obligated within one year of the date of the consolidation, shall revert to the school district's general fund. The Department of Education shall promulgate rules pursuant to chapter 1-26 to require the necessary information and establish procedures necessary to implement this section.

Section 15. That § 13-39-1.2 be amended to read as follows:

13-39-1.2. Terms used in this chapter, mean:

- (1) "Career and technical education," a contextual education model that employs career clusters and programs of study in preparing highly skilled students for success in postsecondary education and in-demand careers;
- (2) "Career clusters," a distinct grouping of occupations and industries based on the knowledge and skills they require;
- (3) "Center board," the governing body of a multidistrict, career and technical academy;
- (4) "Department," the Department of Education;
- (5) "Director," the person at the Department of Education responsible for the administration of career and technical education;
- (6) "Facilities," buildings, rooms, property, and permanent equipment, including vehicles,

used to provide vocational education;

- (7) "LEA," a local education agency limited to public school districts and the legal entities that a school district is authorized to establish;
- (8) "Multidistrict, career and technical academy," an educational entity designed to provide career and technical education and academic courses that prepare youth for a wide range of careers that require varying levels of education;
- (9) "Multi-use facility," a structure or part of a structure for student or faculty use as a lounge area, cafeteria, classroom, or large group area not operated as a student union building in which student fees are charged and utilized to pay for construction and maintenance of a facility under the direct or indirect control of the students;
- (10) "Participating district," a school district which has voting representation on a center board;
- (11) "Postsecondary technical institute," a public nonprofit school legally authorized to provide public postsecondary technical education which does not culminate in a baccalaureate degree at that school;
- (12) "Secretary," the state secretary of education;
- (13) "State board," the South Dakota Board of Education.

Section 16. That § 13-39-8 be amended to read as follows:

13-39-8. Notwithstanding the provisions of § 13-15-2, the general control and supervision over career and technical education as provided in this chapter is the duty of the director under the direction of the secretary of education.

Section 17. That § 13-39-9 be amended to read as follows:

13-39-9. The director has general control and supervision over all career and technical education in all public secondary schools, public postsecondary institutions not under the control of the Board of Regents and all other career and technical education functions assigned to the director by the

secretary of education.

Section 18. That § 13-39-12 be amended to read as follows:

13-39-12. The secretary of education may cooperate with federal agencies in the administration of any acts of Congress relating to career and technical education.

Section 19. That § 13-39-13 be amended to read as follows:

13-39-13. The secretary of education may enter into contracts and agreements with any agency of the United States government or any agency of the state government or its political subdivisions for the purpose of career and technical education, to receive grants of federal funds for career and technical education and to expend those funds under rules promulgated by the South Dakota Board of Education pursuant to chapter 1-26.

Section 20. That § 13-39-19 be amended to read as follows:

13-39-19. The secretary of education may distribute funds appropriated to the department by the Legislature or granted by any federal agency to the state in accordance with chapter 4-8B, for career and technical education in public secondary and postsecondary technical institutes in the state in accordance with a state plan or plans adopted by the South Dakota Board of Education. The aid disbursed to the different schools of the state and all expenses incurred in the administration of the provisions of any federal acts relating to career and technical education shall be paid out of the funds of the secretary appropriated for that purpose and from the federal funds allotted to the State of South Dakota for similar purposes. The state treasurer is the custodian of all money paid to the state from federal appropriations for the purpose of career and technical education and shall disburse the funds on warrants issued by the state auditor upon vouchers approved by the director. The secretary of education shall authorize the director to submit vouchers to the state auditor for the amount payable as state and federal aid to each school approved under the provisions of this chapter. Upon receipt of the vouchers, the state auditor shall draw warrants on the state treasury in favor of the treasurer

of the public secondary and postsecondary technical institute for the sum approved by the secretary.

Section 21. That § 13-39-21 be amended to read as follows:

13-39-21. The director shall prescribe a uniform system for gathering and reporting career and technical education data.

Section 22. That § 13-39-26 be amended to read as follows:

13-39-26. The provisions of this chapter do not apply to nonpublic secondary or postsecondary technical institutions except that the secretary of education and LEAs may enter into agreements with these schools and institutions to provide career and technical education.

Section 23. That § 13-39-27 be amended to read as follows:

13-39-27. For the purposes of providing career and technical education, all LEAs of this state may establish, in cooperation with the department, career and technical education programs by career clusters, as provided in this chapter, under terms and conditions agreed upon. Any LEA board may enter into any agreement to provide career and technical education. An agreement made pursuant to this section is not subject to the limitation of the tuition law. An LEA may expend its money for career and technical education.

Section 24. That § 13-39-29 be amended to read as follows:

13-39-29. The secretary of education, through the director, may receive, acquire, have charge of, and operate all properties for the purposes authorized in this chapter. The secretary may acquire by gift, subject to the provisions of § 5-24-12, or purchase real and personal property for the use of career and technical education and may dispose of or transfer the same whenever the purposes of this chapter are benefited. The secretary may not purchase, lease, sell, encumber, or alienate any real property without the consent and prior approval of the Legislature.

Section 25. That § 13-39-35.1 be amended to read as follows:

13-39-35.1. If the Legislature approves the petition by passing a joint resolution, an LEA may

operate a postsecondary technical institute. If an LEA begins to operate a postsecondary technical institute without the approval required by this section, that school is ineligible for state career and technical education money.

Section 26. That § 13-39-37 be amended to read as follows:

13-39-37. The South Dakota Board of Education may promulgate rules, pursuant to chapter 1-26, to be administered by the director, governing the operation and maintenance of postsecondary technical institutes which will afford the people of the state, insofar as practicable, an equal opportunity to acquire a public technical education. The rules may provide for the following:

- (1) Curriculum and standards of instruction and scholarship;
- (2) Attendance requirements, age limits of trainees, eligibility for attendance, and tuition payments and other charges;
- (3) Apportionment and distribution of funds made available to the board for carrying out the purposes of §§ 13-39-34 to 13-39-39, inclusive;
- (4) Transportation requirements and payments;
- (5) General administrative matters;
- (6) The submission of the annual budget of the postsecondary technical institute which shall include, but is not limited to, a description of programs, a list of staff positions, and the amount for supplies and operating expenses associated with the programs offered. The rules shall require the budget to include all operating costs of programs, including those costs ineligible for reimbursement from federal and state funds, shall state the procedure for amending and filing it with the Department of Education and shall provide that failure to comply with the rules may result in withholding of payments from federal and state funds;
- (7) The submission of plans of LEAs for new construction or major renovation of facilities

eligible for reimbursement. The rules regarding these plans shall provide a requirement that the LEA, by a written resolution, declare the LEA committed to begin construction if the budget of the state board provides the matching funds;

- (8) The promotion and coordination of career and technical education; and
- (9) The prevention of unwarranted duplication of programs.

Section 27. That § 13-39-38 be amended to read as follows:

13-39-38. The secretary of education shall apportion and distribute funds made available for postsecondary technical institutes through a formula approved by the South Dakota Board of Education to the LEAs having jurisdiction over postsecondary technical institutes to assist in maintaining and operating those schools. The use of the funds are subject to rules promulgated by the state board pursuant to subdivision § 13-39-37(3) and in accordance with the approved state plan for career and technical education.

Section 28. That § 13-39-41 be amended to read as follows:

13-39-41. The school boards of two or more school districts may submit to the South Dakota Board of Education a proposed plan to establish a multidistrict, career and technical academy. The proposal shall be consistent with the state plan for career and technical education and shall meet the rules as promulgated by the state board pursuant to chapter 1-26.

Section 29. That § 13-39-56 be amended to read as follows:

13-39-56. The secretary of education shall apportion and distribute funds made available to multidistrict, career and technical academies to assist in defraying instructional costs. The use of these funds is subject to the state plans for career and technical education and to rules promulgated by the South Dakota Board of Education pursuant to chapter 1-26.

Section 30. That § 13-39-57 be amended to read as follows:

13-39-57. Funds distributed to the multidistrict, career and technical academies under the

provisions of § 13-39-56 are to be paid out of money appropriated to the division and from federal funds allotted to the State of South Dakota for the purposes of career and technical education.

Section 31. That § 13-39-69 be amended to read as follows:

13-39-69. There is created a separate trust fund on behalf of the secretary of education to be on deposit with the state treasurer, such fund to be designated the postsecondary technical institutes facilities fund. The fund shall consist of all appropriations by the State Legislature specifically designated for deposit in the fund and any other moneys designated for deposit in the fund, including any investment earnings. The treasurer may create subfunds or accounts within the trust fund created under this section as the treasurer considers necessary. Any earnings from the investment of such fund may be transferred annually by the state treasurer to the tuition subaccount established by § 13-39-70.

Section 32. That § 13-39-70 be amended to read as follows:

13-39-70. There is hereby created within the postsecondary technical institutes facilities fund a tuition subaccount. The secretary may determine and require that all or any portion of the tuition and other student fees payable to an LEA shall be deposited in the subaccount. No moneys may be disbursed from the tuition subaccount for any purpose other than to pay lease rentals or other amounts due and owing in connection with:

- (1) Any facility originally leased to the board of regents but now utilized for career and technical education so long as such facility is on the campus of a postsecondary technical institute; and
- (2) Any lease-purchase agreement authorized under §§ 13-39-66 and 13-39-67 unless the health and educational facilities authority files with the state treasurer a certification that it has on deposit or there has otherwise been appropriated sufficient moneys to pay all amounts due or to become due within the next three months on all such lease-purchase

agreements.

No lease rentals on facilities described in subsection (1) may be paid unless the secretary of education has approved the assumption of the former board of regents' lease obligations by the tuition subaccount. Thereafter, the state treasurer shall retain in the postsecondary technical institutes facilities fund for future repair and improvement as authorized by the Legislature such amounts, not to exceed ten percent thereof, as the secretary shall direct.

Section 33. That § 13-39-71 be amended to read as follows:

13-39-71. All or any portion of the lease-purchase obligations under or in connection with any lease-purchase agreement authorized under §§ 13-39-66 and 13-39-67 may be paid or discharged out of moneys available from the investment earnings on the postsecondary technical institutes trust fund or from any amounts on deposit in the tuition subaccount of such fund upon the determination by the secretary of education to pledge or otherwise transfer such amounts to the health and educational facilities authority.

Section 34. That § 13-39-72 be amended to read as follows:

13-39-72. An LEA operating an approved postsecondary technical institute may award an associate in applied sciences degree. The state board may promulgate rules pursuant to chapter 1-26 providing for approval of programs in postsecondary technical institutes leading to an associate in applied science degree. In approving any program, the state board shall consider curriculum, required hours, quality of instruction, minimum standards for entry into the programs, and standards for program completion.

Section 35. That § 13-42-15 be amended to read as follows:

13-42-15. Upon concluding the hearing, the secretary of the Department of Education or the secretary's representative shall make a decision within thirty days from the date of the hearing. In case of suspension or revocation, the secretary of the Department of Education shall fix the date at

which the suspension or revocation becomes effective and, in case of suspension, the duration of the suspension. A notice of the suspension or revocation shall be given in writing to the teacher or administrator and to the school board by which the teacher or administrator is employed.

Section 36. That § 13-42-29 be amended to read as follows:

13-42-29. Each school administrator whose preparation does not meet certification standards established by the South Dakota Board of Education shall submit to the Department of Education a professional development plan to meet the alternative certification requirements established by the South Dakota Board of Education.

An Act to revise certain outdated and obsolete provisions regarding the Department of Education.

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I certify that the attached Act
originated in the
HOUSE as Bill No. 1006

Chief Clerk
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Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1006
File No. _____
Chapter No. _____

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Received at this Executive Office
this ____ day of _____ ,
20__ at _____ M.

By _____
for the Governor
=====

The attached Act is hereby
approved this _____ day of
_____, A.D., 20__

Governor
=====

STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 20__
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State