

SOUTH DAKOTA BOARD OF REGENTS

Joint BOR and Board of Education Standards Meeting

AGENDA ITEM: 2 – D

DATE: May 8-10, 2018

SUBJECT

South Dakota Opportunity Scholarship Statute Changes

CONTROLLING STATUTE, RULE, OR POLICY

[SDCL 13-55-30](#) – Opportunity Scholarship Program Establish

[SDCL 13-55-31](#) – Eligibility Requirements for Opportunity Scholarship

[SDCL 13-55-31.1](#) – High School Course Requirements for Opportunity Scholarship Eligibility

[SDCL 13-55-31.2](#) – Alternative Testing Requirement for Opportunity Scholarship Eligibility

[SDCL 13-55-33](#) – Allocation of Scholarship Funds – Early Graduation – Proration of Insufficient Funds – Total Scholarship Amount

[SDCL 13-55-34](#) – Continuing Eligibility Requirements for Scholarship Recipients

[SDCL 13-55-35](#) – Board of Regents to Allocate Appropriated Funds and Other Funds Received for Program

[SDCL 13-55-36](#) – Board of Regents to Promulgate Rules

[ARSD 24:40:13.02](#) – Initial Eligibility Requirements

BACKGROUND / DISCUSSION

The South Dakota Opportunity Scholarship program (“Program”) was established through the coordinated efforts of the Governor, the state legislature, and the Board of Regents to fulfill three primary objectives for the state:

- Encourage South Dakota high school students to take a rigorous high school curriculum prior to graduation to increase their chance for postsecondary success;
- Provide a financial incentive for students to remain in the state and attend a private, public, or proprietary postsecondary institution;
- Provide a financial incentive for students to remain in the state following graduation to meet the critical workforce needs for the state.

When the Program was fully funded in 2004, the Board of Regents was given administrative authority to manage the Program on behalf of the State of South Dakota.

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INFORMATIONAL ITEM

Specifically, the Board was given administrative rule making authority for the curriculum and continuing eligibility requirements for the Program. During the first years of the Program, each school district was asked to have its required curriculum reviewed to ensure alignment with what the legislature approved through the interim rule-making process. While students were expected to complete the curriculum consistent with the Regents Scholars program, rules were also promulgated to ensure that students also completed all coursework with a grade of “C or higher” and earned a cumulative grade point average of 3.0 at the time of graduation.

Since the Program began in 2004, draft legislation has continued to surface each year to change the requirements for the program. To date, 20 bills have sought to:

- 2006 – [House Bill 1140](#) – Allow eligibility after failing to meet 3.0 cumulative grade point average
- 2006 – [House Bill 1157](#) – Allow eligibility within two years after enrollment out of state
- 2007 – [House Bill 1142](#) – Increase the total value of the Program to \$6,000
- 2008 – [House Bill 1186](#) – Allow students to take the ACT or SAT after high school graduation
- 2008 – [House Bill 1306](#) – Allow homeschool students to participate with a 28 ACT Score
- 2008 – [Senate Bill 59](#) – Increase the total value of the Program to \$6,000
- 2008 – [Senate Bill 201](#) – Initial eligibility with a 23 ACT Score
- 2009 – [House Bill 1154](#) – Allow students who have established eligibility in the Program to attend an institution outside the state and then return to South Dakota within two years and still maintain eligibility in the Program.
- 2010 – [House Bill 1160](#) – Allow homeschool students to participate with a 28 ACT Score
- 2010 – [House Bill 1190](#) – Allow students to take Career and Technical Education (CTE) in lieu of Foreign Language
- 2010 – [House Bill 1224](#) – Defer the payment until Sophomore year
- 2010 – [Senate Bill 145](#) – Replace the 15 credit hour requirement with benchmarks
- 2011 – [House Bill 1250](#) – Allow homeschool students to receive funding with a 24 ACT
- 2013 – [House Bill 1198](#) – Allow early graduates to use funding for graduate work
- 2014 – [House Bill 1078](#) – Allow SD graduates from out-of-state to receive funding
- 2014 – [Senate Bill 166](#) – Award Additional Funding for Students Pursuing STEM
- 2015 – [House Bill 1147](#) – Increase the total value of the scholarship to \$6,500
- 2015 – [House Bill 1172](#) – Allow graduates from SD high school living in a border state to be eligible for the program

- **2017** – [Senate Bill 132](#) – Require students to repay the scholarship funding if they are not placed in the state following graduation
- **2018** – [Senate Bill 94](#) – Allow home schooled students to be eligible for the program with a 24 composite ACT score

Besides the legislature increasing the value of the scholarship to \$6,500 in 2015, the most significant change to the program occurred with House Bill 1190 during the 2010 legislative session. The then-current Secretary of Education advanced curriculum revisions that expanded the opportunity for Career and Technical Education (CTE) coursework to serve as an alternative to the Modern and Classical Language requirement. Under the administrative rules advanced by the Board, students were required to complete two units of the same modern/classical language to establish initial eligibility. The changes proposed (and eventually adopted) in 2010 sought to allow students greater flexibility in selecting CTE or Modern/Classical language courses available at their local high school.

When [House Bill 1190](#) was approved, state statute was changed from “Meet the high school course requirements for graduation from the distinguished high school program as provided in section 24:43:11:05 of the Administrative Rules of South Dakota as in effect on January 1, 2008;” to “Meet the high school course requirements for graduation as provided in § 13-55-31.1.” With this change, the Board of Regents brought forward administrative rule changes to section [24:40:13:02](#) later that year to remove the curriculum requirements that were initially established. Despite removing these requirements, this subsection of administrative rules still specified that:

“No course in which a student received a final grade below a "C" (2.0 on a 4.0 scale) may be counted for purposes of this subdivision. If a student who receives disqualifying grades in courses required under this subdivision retakes those courses while in high school, the student may still qualify for eligibility if the student has the required number of courses with grades of C or above in each subcategory;”

Previous attempts by the legislature had not been successful at creating an opportunity for homeschool students, driven primarily by the inability to evaluate the curriculum completed for homeschool students. An alternative solution had been advanced with House Bill 1060 in 2010 which allowed for any student with a 28 or higher on the ACT to establish initial eligibility. Homeschool students/parents continued to believe this 2010 legislation created an unfair disadvantage to students by setting the standardized testing bar considerably higher. During the 2018 legislative session, Senate Bill 94 sought to provide an opportunity for homeschooled students in the state to become eligible for the Program by earning a 24 ACT composite score. The bill initially passed both the senate and house, but was later vetoed by Governor Dugaard. Initial opposition from the Board of Regents and the SDDOE focused on the additional administrative rule requirements outlined above that are in place for traditional high school graduates. The courses and curriculum continue to go through a review process, and performance assessments are

made by an objective third party to the students seeking to meet both the 3.0 and “C or higher” grade requirements.

IMPACT AND RECOMMENDATIONS

During testimony on SB 94 during the 2018 legislative session, legislators discussed the creation of the Program, noting that the Board of Regents had overreached in its administrative rule-making authority. Suggesting that the “C or higher,” GPA of 3.0, or curriculum review at the district level were never intended by the original crafters of the Program. In an attempt to further balance the playing field for traditional high school graduates, the Board of Regents staff suggested the removal of this particular administrative rule requirement. However, doing so would result in a significant fiscal impact to the program, which would need to go through the interim-rules review process with the legislature.

Additionally, other minor revisions to the statute governing the Program are necessary if that is the desired approach of the Board of Regent. Specifically, the curriculum requirements referencing those graduating prior to 2010 can be eliminated, and if there is a desire to develop a homeschool option, then the section of statute implemented in response to HB 1160 would need to also be repealed. BOR central office staff have drafted proposed revisions to the state statutes and administrative rules governing the program which are provided in Attachment I.

ATTACHMENTS

Attachment I – Relevant Opportunity Scholarship Statutes and Administrative Rules

13-55-31. Eligibility requirements for opportunity scholarship. In order to be eligible for a South Dakota opportunity scholarship award, a student shall:

- (1) Be a resident of South Dakota at the time of graduation from high school;
- (2) Have a composite score of 24, or higher, on the test administered by the American College Testing Program or an equivalent score as determined by the Board of Regents on the Scholastic Assessment Test. The student shall take the ACT or SAT test before beginning postsecondary education;
- (3) Meet the high school course requirements for graduation as provided in § 13-55-31.1;
- (4) Attend a university, college, or technical school that is accredited by the North Central Association of Colleges and Schools and that provides instruction from a campus located in South Dakota; and
- (5) Enter into the program within five years of graduation from high school or within one year of the student's release from active duty with an active component of the armed forces if the release is within five years of the student's graduation from high school. If a student attends full-time a regionally accredited university, college, or technical school located outside South Dakota and within two years following high school graduation or within two years following release from active military service returns to the state to attend full-time a regionally accredited university, college, or technical school, the student is eligible to receive a partial award.

A student is eligible to participate in the South Dakota opportunity scholarship program for the equivalent of four academic years (eight consecutive spring and fall terms) or until the attainment of a baccalaureate degree, whichever comes first. However, the executive director of the Board of Regents may grant exceptions to the continuous enrollment requirements for good cause shown.

A student who would have been eligible for the scholarship, but who applies after completing one or more semesters of full-time work at an accredited institution, may be admitted to the program only if the student has complied with the same grade point and credit hour requirements that would apply to program participants. Admission granted under these circumstances may not be retroactive, and eligibility for participation in the program shall be reduced by one semester for each semester of work completed prior to admission to the program.

Source: SL 2003, ch 110, § 2; SL 2006, ch 89, § 1; SL 2008, ch 87, § 1; SL 2008, ch 88, § 1; SL 2010, ch 96, § 2.

13-55-31.1. High school course requirements for opportunity scholarship eligibility. ~~To be eligible for an opportunity scholarship, a student who entered the ninth grade prior to the 2010-2011 school year shall complete the following high school course requirements:~~

- ~~(1) Four or more units of language arts that include a minimum of the following:~~
 - ~~(a) One and one-half units of writing;~~
 - ~~(b) One and one-half units of literature that must include one-half unit of American Literature;~~
 - ~~(c) One-half unit of speech or debate; and~~
 - ~~(d) One-half unit of a language arts elective;~~
- ~~(2) Three or more units of social studies that include the following:~~
 - ~~(a) One unit of U.S. History;~~
 - ~~(b) One-half unit of U.S. government;~~
 - ~~(c) One-half unit of geography;~~
 - ~~(d) One-half unit of world history; and~~
 - ~~(e) One-half unit of a social studies elective;~~
- ~~(3) Four units of mathematics that must include the following:~~
 - ~~(a) One unit of algebra I;~~
 - ~~(b) One unit of geometry;~~
 - ~~(c) One unit of algebra II; and~~
 - ~~(d) One unit of advanced math;~~
- ~~(4) Four units of science, including at least three units in laboratory science, that must include the following:~~
 - ~~(a) One unit of biology;~~
 - ~~(b) One unit of any physical science;~~
 - ~~(c) One unit of chemistry or physics; and~~
 - ~~(d) One unit of science electives;~~
- ~~(5) Two units of world languages (two years of the same language);~~
- ~~(6) One-half unit of computer studies;~~
- ~~(7) One unit of fine arts;~~
- ~~(8) One-half unit of personal finance or economics; and~~
- ~~(9) One-half unit of physical education or health.~~

~~A student may earn academic core content credit by completing an approved career and technical education course. Approval to offer credit for a career and technical education course must be obtained through an application process with the Department of Education. The Department of Education shall meet with the Board of Regents to determine final course approval. The application must include:~~

- ~~(1) Course syllabus;~~
- ~~(2) Standards-based curriculum;~~
- ~~(3) Teacher certification; and~~
- (4) Assessment of standards by methods including end-of-course exams, authentic assessment, project-based learning or rubrics.

To be eligible for an opportunity scholarship, a student ~~who enters the ninth grade in the 2010-2011 school year or thereafter~~ shall complete the following high school course requirements:

- (1) Four or more units of language arts that include a minimum of the following:
 - (a) One and one-half units of writing;

- (b) One and one-half units of literature that must include one-half unit of American literature;
- (c) One-half unit of speech or debate; and
- (d) One-half unit of a language arts elective;
- (2) Three units or more of social studies that include the following:
 - (a) One unit of U.S. history;
 - (b) One-half unit of U.S. government;
 - (c) One-half unit of geography;
 - (d) One-half unit of world history; and
 - (e) One-half unit of a social studies elective;
- (3) Four units of mathematics that must include the following:
 - (a) One unit of algebra I;
 - (b) One unit of geometry;
 - (c) One unit of algebra II; and
 - (d) One unit of advanced math;
- (4) Four units of science, including at least three units in laboratory science, that must include the following:
 - (a) One unit of biology;
 - (b) One unit of any physical science;
 - (c) One unit of chemistry or physics; and
 - (d) One unit of science electives;
 - (5) Two units of either of the following or a combination of the two:
 - (a) Approved career and technical education courses; and
 - (b) World languages;

Approval for a career and technical education course must be obtained through an application process with the Department of Education. The department shall meet with the Board of Regents to determine final course approval;

- (6) One-half unit of personal finance or economics;
- (7) One unit of fine arts;
- (8) One-half unit of physical education; and
- (9) ~~For students entering the ninth grade in the 2013-2014 school year and thereafter,~~

One-half unit of health or health integration.

A student may be granted up to one unit of credit in fine arts for participation in extracurricular activities. A maximum of one-fourth unit of credit may be granted for each extracurricular activity in which a student participates during each school year. In order to grant credit for an extracurricular activity, a school district must document the alignment of the activity with fine arts content standards approved by the South Dakota Board of Education Standards.

~~Students entering the ninth grade in the 2013-2014 school year and thereafter are required to take one-half unit of health at anytime during grades six through twelve.~~ A school district may choose to integrate health across the curriculum at the middle or high school level in lieu of a stand-alone course.

A student may earn academic core content credit by completing an approved career and technical education course. Approval to offer credit for a career and technical education course must be obtained through an application process with the Department of Education. The

Department of Education shall meet with the Board of Regents to determine final course approval. The application must include:

- (1) Course syllabus;
- (2) Standards-based curriculum;
- (3) Teacher certification; and
- (4) Assessment of standards by methods including end-of-course exams, authentic assessment, project-based learning or rubrics.

South Dakota residents with a valid certificate of excuse pursuant to §§ 13-27-3 and 13-27-7 may be eligible to participate in the South Dakota Opportunity Scholarship program if the curriculum requirements noted above are fulfilled prior to initial entry into postsecondary. Students must provide a transcript issued by the parent or guardian listed on the certificate of excuse for validation by the Executive Director of the Board of Regents.

Source: SL 2010, ch 96, § 3; SL 2017, ch 81, § 57.

~~13-55-31.2. Alternative testing requirements for opportunity scholarship eligibility. Any student who does not meet the high school course requirements as provided in subdivision 13-55-31(3) is eligible for the opportunity scholarship program if:~~

~~——— (1) ——— The student takes the test administered by the American College Testing Program and earns a composite score of twenty-eight or higher and achieves ACT college readiness benchmark scores equaling or exceeding eighteen for English, twenty-one for reading, twenty-two for math, and twenty-four for science; or~~

~~——— (2) ——— The student takes the Scholastic Assessment Test and earns a verbal-mathematics score of twelve hundred fifty or higher, while also attaining sufficiently high markers in reading, writing, mathematics, and science as not to require remediation in any of those areas.~~

~~——— This section is effective on July 1, 2013.~~

Source: SL 2010, ch 103, § 1, eff. July 1, 2013.

24:40:13:02. Initial eligibility requirements. In order to be eligible to receive a South Dakota Opportunity Scholarship, a student must:

(1) Be graduated from high school with a cumulative average grade of "B" (3.0 on a 4.0 scale), or greater, for all work attempted and completed as designated on the official high school transcript at the time of graduation;

(2) Be a resident of South Dakota at the time of graduation from high school;

(3) Take the test administered by the American College Testing Program (ACT) or the Scholastic Assessment Test (SAT) examination while in high school or the summer following graduation from high school and before postsecondary enrollment;

(4) Receive a composite score on the ACT of at least 24 or an equivalent score on the SAT as determined by the Board of Regents;

(5) Complete the required number of high school courses specified in § 13-55-31.1.

~~—— No course in which a student received a final grade below a "C" (2.0 on a 4.0 scale) may be counted for purposes of this subdivision. If a student who receives disqualifying grades in courses required under this subdivision retakes those courses while in high school, the student may still qualify for eligibility if the student has the required number of courses with grades of C or above in each subcategory;~~

(6) Meet testing requirements as provided in this subdivision. Effective for those students entering into postsecondary education for the first time on or after August 2014, the curriculum requirements specified in subdivision (5) are not required for any student who has received a composite score on the ACT of at least 28 and meets the ACT college readiness benchmarks scores equaling or exceeding 18 for English, 21 for Reading, 22 for Math, and 24 for Science;

(7) Attend a participating institution; and

(8) Enter into the scholarship program within five years of the date of graduation from high school. A student who entered active military duty immediately after the date of graduation from high school may qualify for the scholarship if the student's release from military service occurs within five years from the student's graduation and the student enters the scholarship program within one year of the student's release from active military duty.

Source: 30 SDR 211, effective July 7, 2004; 35 SDR 187, effective February 12, 2009; 39 SDR 129, effective January 28, 2013.

General Authority: SDCL [13-55-36](#).

Law Implemented: SDCL [13-55-31](#), [13-55-31.1](#), [13-55-31.2](#).
