



## 2020 South Dakota Legislature

# Senate Bill 170

SENATE ENGROSSED

*Introduced by: The Committee on Education at the request of the Office of the Governor*

1 **An Act to revise certain provisions regarding school district capital outlay funds.**

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

3 **Section 1.** That § 13-16-7.2 be AMENDED:

4 **13-16-7.2. Maximum taxes--Pledge of taxes.**

5 Starting with taxes payable in 2021, a school district is limited to the maximum  
6 taxes allowed pursuant to § 13-16-7 or ~~two-three thousand-eight hundred~~ four hundred  
7 dollars for each enrolled student as determined in the fall enrollment count set forth in  
8 § 13-13-10.1 for the prior school year, whichever is less. For 2022 and subsequent years,  
9 the maximum amount for each enrolled student shall increase by the lesser of three  
10 percent or the index factor, as defined in § 10-13-38.

11 If a school district has irrevocably pledged taxes collected to the payment of principal  
12 and interest on installment purchase contracts or capital outlay certificates entered into  
13 or issued pursuant to § 13-16-6 or 13-16-6.2 or lease-purchase agreements or other  
14 arrangements with the Health and Educational Facilities Authority prior to July 1, 2016,  
15 that school district may raise taxes allowed pursuant to § 13-16-7 and this section in an  
16 amount necessary to fund those payments and obligations and to provide additional  
17 funding of up to ~~two-three thousand-eight hundred~~ four hundred dollars for each enrolled  
18 student as determined in the fall enrollment count set forth in § 13-13-10.1. In no year  
19 may the annual tax levy provided in this section exceed the levy authorized under § 13-  
20 16-7.

21 **Section 2.** That a NEW SECTION be added:

22 **10-12-43.1. Excess tax levy--School district capital outlay fund--**  
23 **Restrictions.**

24 A school district subject to the tax limitation on each enrolled student pursuant to  
25 § 13-16-7.2 may raise additional revenues for capital outlay fund purposes through the

imposition of an excess tax levy. A school district seeking to impose an excess tax levy pursuant to this section is subject to the same opt out procedures and requirements as provided in § 10-12-43. The opt out decision may be referred to a vote of the people in the same manner as provided in § 10-12-43.

A school district imposing an excess tax levy pursuant to this section shall exclude any additional revenue generated by the excess tax levy from the total tax revenues deposited in the capital outlay fund when calculating the maximum allowable transfer to the school district's general fund authorized under § 13-16-6. Any additional revenue generated by the excess tax levy may only be used for capital outlay fund purposes pursuant to § 13-16-6.

In no year may the annual tax levy for capital outlay fund purposes exceed the levy authorized under § 13-16-7.

**Section 3.** That a NEW SECTION be added:

**13-16-7.3. Maximum pledge of taxes--Limitations.**

Notwithstanding the provisions of § 13-16-7, a school board that, in calendar year 2020 was limited to a maximum capital outlay revenue of one thousand four hundred dollars or less per student is eligible, starting with taxes payable in 2021, to authorize the levy of a tax not to exceed three dollars per thousand of taxable valuation for the capital outlay fund for assets as defined by § 13-16-6 or for the district's obligations under a resolution, lease-purchase agreement, capital outlay certificate, or other arrangement with the Health and Educational Facilities Authority.

Any district that exceeds the limits provided in § 13-16-7 may not collect more than one thousand four hundred dollars for each enrolled student for capital outlay in taxes payable in 2021. For 2022 and subsequent years, the maximum amount for each enrolled student shall increase by the lesser of three percent or the index factor, as defined in § 10-13-38.

**Section 4.** That § 13-16-7 be AMENDED:

**13-16-7. Additional tax levy for certain funds or obligations--Pledge of taxes--Limitations.**

The school board of any school district of this state may at the board's discretion authorize an annual levy of a tax not to exceed three dollars per thousand dollars of taxable valuation on the taxable valuation of the district for the capital outlay fund for assets as defined by § 13-16-6 or for the district's obligations under a resolution, lease-

1 purchase agreement, capital outlay certificate, or other arrangement with the Health and  
2 Educational Facilities Authority. Taxes collected pursuant to the levy may be irrevocably  
3 pledged by the school board to the payment of principal of and interest on installment  
4 purchase contracts or capital outlay certificates entered into or issued pursuant to § 13-  
5 16-6 or 13-16-6.2 or lease-purchase agreements or other arrangement with the Health  
6 and Educational Facilities Authority and, so long as any capital outlay certificates are  
7 outstanding, installment agreement payments, lease-purchase agreements, or other  
8 arrangements are unpaid, the school board of any district may be compelled by mandamus  
9 or other appropriate remedy to levy an annual tax sufficient to pay principal and interest  
10 thereon, but not to exceed the three dollars per thousand dollars of taxable valuation in  
11 any year authorized to be levied hereby.

12 The total amount of revenue payable from the levy provided in this section may not  
13 increase annually by more than the lesser of three percent or the index factor, as defined  
14 in § 10-13-38, over the maximum amount of revenue that could have been generated  
15 from the taxes payable in 2016. Starting with taxes payable in 2021, the total amount of  
16 revenue payable from the levy provided in this section may not increase annually by more  
17 than three percent over the amount of revenue that could have been raised in the prior  
18 year. After applying ~~the index factor three percent~~, a school district may increase the  
19 revenue payable from taxes on real property above the limitations provided by this section  
20 by the percentage increase of value resulting from any improvements or change in use of  
21 real property, annexation, minor boundary changes, and any adjustments in taxation of  
22 real property separately classified and subject to statutory adjustments and reductions  
23 under chapters 10-4, 10-6, 10-6A, and 10-6B, except § 10-6-31.4, only if assessed the  
24 same as property of equal value. A school district may increase the revenue the district  
25 receives from taxes on real property above the limit provided by this section for taxes  
26 levied to pay the principal, interest, and redemption charges on any bonds issued after  
27 January 1, 2009, which are subject to referendum, scheduled payment increases on bonds  
28 and for a levy directed by the order of a court for the purpose of paying a judgment against  
29 the school district. Any school district created or reorganized after January 1, 2016, is  
30 exempt from the limitation provided by this section for a period of two years immediately  
31 following the district's creation.

32 In no year may the annual tax levy provided in this section exceed three dollars per  
33 thousand dollars of taxable valuation of the school district for the current year.

34 **Section 5.** That a NEW SECTION be added:

1           **13-16-7.4. Maximum pledge of taxes--Transition.**

2           Any school district impacted by the three thousand four hundred dollar tax  
3           limitation as provided in § 13-16-7.2 during calendar years 2021, 2022, and 2023 may  
4           transfer to the general fund the actual total dollar amount the school district transferred  
5           in fiscal year 2020. Beginning in calendar year 2024, any impacted school district is limited  
6           to the transfer amount provided for in § 13-16-6.