



## 2020 South Dakota Legislature

### House Bill 1042

#### JOINT APPROPRIATIONS ENGROSSED

*Introduced by: The Committee on Appropriations at the request of the Bureau of Finance and Management*

- 1 **An Act to revise the special education property tax levy for school districts and to**  
 2 **revise the state aid to special education formula.**

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

4 **Section 1.** That § 13-37-16 be AMENDED:

5 **13-37-16. District tax levy for special education--School district special**  
 6 **education fund.**

7 For taxes payable in ~~2020~~ 2021, and each year thereafter, the school board shall  
 8 levy no more than one dollar and ~~sixty-one and six~~ sixty-eight and four-tenths cents per  
 9 thousand dollars of taxable valuation, as a special levy in addition to all other levies  
 10 authorized by law for the amount so determined to be necessary, and the levy shall be  
 11 spread against all of the taxable property of the district. The proceeds derived from the  
 12 levy shall constitute a school district special education fund of the district for the payment  
 13 of costs for the special education of all children in need of special education or special  
 14 education and related services who reside within the district pursuant to the provisions of  
 15 §§ 13-37-8.2 to 13-37-8.10, inclusive. The levy in this section shall be based on valuations  
 16 such that the median level of assessment represents eighty-five percent of market value  
 17 as determined by the Department of Revenue. The total amount of taxes that would be  
 18 generated at the levy pursuant to this section shall be considered local effort. Money in  
 19 the special education fund may be expended for the purchase or lease of any assistive  
 20 technology that is directly related to special education and specified in a student's  
 21 individualized education plan. This section does not apply to real property improvements.

22 **Section 2.** That § 13-37-35.1 be AMENDED:

23 **13-37-35.1. Definitions.**

24 Terms used in chapter 13-37 mean:

25 (1) "Level one disability," a mild disability;

- (2) "Level two disability," cognitive disability or emotional disorder;
- (3) "Level three disability," hearing impairment, deafness, visual impairment, deaf-blindness, orthopedic impairment, or traumatic brain injury;
- (4) "Level four disability," autism;
- (5) "Level five disability," multiple disabilities;
- (5A) "Level six disability," prolonged assistance;
- (6) "Index factor," is the annual percentage change in the consumer price index for urban wage earners and clerical workers as computed by the Bureau of Labor Statistics of the United States Department of Labor for the year before the year immediately preceding the year of adjustment or three percent, whichever is less;
- (7) "Local effort," shall be calculated for taxes payable in ~~2020~~ 2021 and thereafter using a special education levy of one dollar and ~~forty-one and six~~ forty-eight and four-tenths cents per one thousand dollars of valuation;
- (8) "Allocation for a student with a level one disability," for the school fiscal year beginning July 1, ~~2019~~ 2020, is ~~\$5,665.27~~ \$6,152. For each school year thereafter, the allocation for a student with a level one disability shall be the previous fiscal year's allocation for such child increased by the index factor;
- (9) "Allocation for a student with a level two disability," for the school fiscal year beginning July 1, ~~2019~~ 2020, is ~~\$13,074.98~~ \$14,655. For each school year thereafter, the allocation for a student with a level two disability shall be the previous fiscal year's allocation for such child increased by the index factor;
- (10) "Allocation for a student with a level three disability," for the school fiscal year beginning July 1, ~~2019~~ 2020, is ~~\$16,664.57~~ \$19,194. For each school year thereafter, the allocation for a student with a level three disability shall be the previous fiscal year's allocation for such child increased by the index factor;
- (11) "Allocation for a student with a level four disability," for the school fiscal year beginning July 1, ~~2019~~ 2020, is ~~\$16,160.97~~ \$15,405. For each school year thereafter, the allocation for a student with a level four disability shall be the previous fiscal year's allocation for such child increased by the index factor;
- (12) "Allocation for a student with a level five disability," for the school fiscal year beginning July 1, ~~2019~~ 2020, is ~~\$28,865.25~~ \$32,348. For each school year thereafter, the allocation for a student with a level five disability shall be the previous fiscal year's allocation for such child increased by the index factor;
- (12A) "Allocation for a student with a level six disability," for the school fiscal year beginning July 1, ~~2019~~ 2020, is ~~\$8,314.11~~ \$8,261. For each school year thereafter,

- 1 the allocation for a student with a level six disability shall be the previous fiscal  
2 year's allocation for such child increased by the index factor;
- 3 (13) "Child count," is the number of students in need of special education or special  
4 education and related services according to criteria set forth in rules promulgated  
5 pursuant to §§ 13-37-1.1 and 13-37-46 submitted to the Department of Education  
6 in accordance with rules promulgated pursuant to § 13-37-1.1;
- 7 (14) "Fall enrollment," the number of kindergarten through twelfth grade students  
8 enrolled in all schools operated by the school district on the last Friday of September  
9 of the previous school year minus the number of students for whom the district  
10 receives tuition, except any nonresident student who is in the care and custody of  
11 a state agency and is attending a public school and any student for whom tuition is  
12 being paid pursuant to § 13-28-42.1, plus the number of students for whom the  
13 district pays tuition;
- 14 (15) "Nonpublic school," a sectarian organization or entity which is accredited by the  
15 secretary of education for the purpose of instructing children of compulsory school  
16 age. This definition excludes any school that receives a majority of its revenues  
17 from public funds;
- 18 (16) "Nonpublic fall enrollment," the number of children under age eighteen, who are  
19 approved for alternative instruction pursuant to § 13-27-2 on the last Friday of  
20 September of the previous school year plus:
- 21 (a) For nonpublic schools located within the boundaries of a public school district  
22 with a fall enrollment of six hundred or more on the last Friday of September  
23 of the previous school year, the number of kindergarten through twelfth  
24 grade students enrolled on the last Friday of September of the previous  
25 regular school year in all nonpublic schools located within the boundaries of  
26 the public school district;
- 27 (b) For nonpublic schools located within the boundaries of a public school district  
28 with a fall enrollment of less than six hundred on the last Friday of September  
29 of the previous school year, the number of resident kindergarten through  
30 twelfth grade students enrolled on the last Friday of September of the  
31 previous school year in all nonpublic schools located within the State of South  
32 Dakota;
- 33 (17) "Special education fall enrollment," fall enrollment plus nonpublic fall enrollment;
- 34 (18) "Local need," an amount to be determined as follows:

- 1 (a) Multiply the special education fall enrollment by 0.1 and multiply the result  
2 by the allocation for a student with a level one disability;
- 3 (b) Multiply the number of students having a level two disability as reported on  
4 the child count for the previous school fiscal year by the allocation for a  
5 student with a level two disability;
- 6 (c) Multiply the number of students having a level three disability as reported on  
7 the child count for the previous school fiscal year by the allocation for a  
8 student with a level three disability;
- 9 (d) Multiply the number of students having a level four disability as reported on  
10 the child count for the previous school fiscal year by the allocation for a  
11 student with a level four disability;
- 12 (e) Multiply the number of students having a level five disability as reported on  
13 the child count for the previous school fiscal year by the allocation for a  
14 student with a level five disability;
- 15 (f) Multiply the number of students having a level six disability as reported on  
16 the child count for the previous school fiscal year by the allocation for a  
17 student with a level six disability;
- 18 (g) When calculating local need at the statewide level, include the amount set  
19 aside for extraordinary costs defined in § 13-37-40;
- 20 (h) When calculating local need at the statewide level, include the amount set  
21 aside for the South Dakota School for the Blind and Visually Impaired;
- 22 (i) Sum the results of (a) to (h), inclusive;
- 23 (19) "Effort factor," the school district's special education tax levy in dollars per thousand  
24 divided by ~~\$1.416~~ \$1.484. The maximum effort factor is 1.0.