

# State of South Dakota

EIGHTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 2009

672Q0048

## SENATE ENGROSSED NO. **SB 4** - 2/3/2009

Introduced by: Senators Knudson, Peterson, and Rhoden and Representatives Noem, Dennert, and Street at the request of the Agricultural Land Assessment Implementation and Oversight Advisory Task Force

1 FOR AN ACT ENTITLED, An Act to revise certain tax levy limitations and property tax levies  
2 for school districts.

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

4 Section 1. That § 13-10-6 be amended to read as follows:

5 13-10-6. For the purpose of continuing a fund for the payment of pensions to retired  
6 employees of a school district that has established such system, the school district may levy an  
7 annual tax not exceeding thirty cents per thousand dollars of taxable valuation of the school  
8 district for the current year. The levy may not be included in determining the tax levy limitation  
9 of the school district provided by law. Moneys collected from the tax shall be kept by the  
10 business manager in a special pension fund and may not be used for any other purpose except  
11 upon discontinuance of the pension system by the school district, in which case any unexpended  
12 balance shall be transferred to the general fund.

13 For taxes payable in 2011, the total amount of revenue payable from the levy provided in  
14 this section may not increase more than the lesser of three percent or the index factor, as defined



1 in § 10-13-38, over the maximum amount of revenue that could have been generated for the  
2 taxes payable in 2010. After applying the index factor, a school district may increase the revenue  
3 payable from taxes on real property above the limitations provided by this section by the  
4 percentage increase of value resulting from any improvements or change in use of real property,  
5 annexation, minor boundary changes, and any adjustments in taxation of real property separately  
6 classified and subject to statutory adjustments and reductions under chapters 10-4, 10-6, 10-6A,  
7 and 10-6B, except § 10-6-31.4, only if assessed the same as property of equal value.

8 For taxes payable in 2012, 2013, 2014, ~~and 2015~~, 2016, and 2017, the total amount of  
9 revenue payable from the levy provided in this section may not increase more than the lesser of  
10 three percent or the index factor, as defined in § 10-13-38, over the maximum amount of  
11 revenue that could have been generated for the taxes payable in 2010 plus any unused index  
12 factor from the previous years. After applying the index factor, a school district may increase  
13 the revenue payable from taxes on real property above the limitations provided by this section  
14 by the percentage increase of value resulting from any improvements or change in use of real  
15 property, annexation, minor boundary changes, and any adjustments in taxation of real property  
16 separately classified and subject to statutory adjustments and reductions under chapters 10-4,  
17 10-6, 10-6A, and 10-6B, except § 10-6-31.4, only if assessed the same as property of equal  
18 value.

19 Any school district created or reorganized after January 1, 2009, is exempt from the  
20 limitation provided by this section for a period of two years immediately following its creation.

21 For taxes payable in 2011, 2012, 2013, 2014, ~~and 2015~~, 2016, and 2017, the levy limitation  
22 of thirty cents per thousand dollars of taxable valuation does not apply to any school district.

23 Section 2. That § 13-16-7 be amended to read as follows:

24 13-16-7. The school board of any school district of this state may at its discretion authorize

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

14 For taxes payable in 2011, the total amount of revenue payable from the levy provided in  
15 this section may not increase more than the lesser of three percent or the index factor, as defined  
16 in § 10-13-38, over the maximum amount of revenue that could have been generated for the  
17 taxes payable in 2010. After applying the index factor, a school district may increase the revenue  
18 payable from taxes on real property above the limitations provided by this section by the  
19 percentage increase of value resulting from any improvements or change in use of real property,  
20 annexation, minor boundary changes, and any adjustments in taxation of real property separately  
21 classified and subject to statutory adjustments and reductions under chapters 10-4, 10-6, 10-6A,  
22 and 10-6B, except § 10-6-31.4, only if assessed the same as property of equal value. A school  
23 district may increase the revenue it receives from taxes on real property above the limit provided  
24 by this section for taxes levied to pay the principal, interest, and redemption charges on any

1 bonds issued after January 1, 2009, which are subject to referendum; for scheduled payment  
2 increases on bonds, and for a levy directed by the order of a court for the purpose of paying a  
3 judgment against the school district. Any school district created or reorganized after January 1,  
4 2009, is exempt from the limitation provided by this section for a period of two years  
5 immediately following its creation.

6 For taxes payable in 2012, 2013, 2014, ~~and~~ 2015, 2016, and 2017, the total amount of  
7 revenue payable from the levy provided in this section may not increase more than the lesser of  
8 three percent or the index factor, as defined in § 10-13-38, over the maximum amount of  
9 revenue that could have been generated for the taxes payable in 2010 plus any unused index  
10 factor from the previous years. After applying the index factor, a school district may increase  
11 the revenue payable from taxes on real property above the limitations provided by this section  
12 by the percentage increase of value resulting from any improvements or change in use of real  
13 property, annexation, minor boundary changes, and any adjustments in taxation of real property  
14 separately classified and subject to statutory adjustments and reductions under chapters 10-4,  
15 10-6, 10-6A, and 10-6B, except § 10-6-31.4, only if assessed the same as property of equal  
16 value. A school district may increase the revenue it receives from taxes on real property above  
17 the limit provided by this section for taxes levied to pay the principal, interest, and redemption  
18 charges on any bonds issued after January 1, 2009, which are subject to referendum, scheduled  
19 payment increases on bonds and for a levy directed by the order of a court for the purpose of  
20 paying a judgment against such school district. Any school district created or reorganized after  
21 January 1, 2009, is exempt from the limitation provided by this section for a period of two years  
22 immediately following its creation.

23 For taxes payable in 2011, 2012, 2013, 2014, ~~and~~ 2015, 2016, and 2017, the levy limitation  
24 of three dollars per thousand dollars of taxable valuation does not apply to any school district.

1 Section 3. That § 13-37-16 be amended to read as follows:

2 13-37-16. For taxes payable in 1997, and each year thereafter, the school board shall levy  
3 no more than one dollar and forty cents per thousand dollars of taxable valuation, as a special  
4 levy in addition to all other levies authorized by law for the amount so determined to be  
5 necessary, and such levy shall be spread against all of the taxable property of the district. The  
6 proceeds derived from such levy shall constitute a school district special education fund of the  
7 district for the payment of costs for the special education of all children in need of special  
8 education or special education and related services who reside within the district pursuant to the  
9 provisions of §§ 13-37-8.2 to 13-37-8.10, inclusive. The levy in this section shall be based on  
10 valuations such that the median level of assessment represents 85% of market value as  
11 determined by the Department of Revenue and Regulation. The total amount of taxes that would  
12 be generated at the levy pursuant to this section shall be considered local effort. Money in the  
13 special education fund may be expended for the purchase or lease of any assistive technology  
14 that is directly related to special education and specified in a student's individualized education  
15 plan. This section does not apply to real property improvements.

16 For taxes payable in 2011, the total amount of revenue payable from the levy provided in  
17 this section may not increase more than the lesser of three percent or the index factor, as defined  
18 in § 10-13-38, over the maximum amount of revenue that could have been generated for the  
19 taxes payable in 2010. After applying the index factor, a school district may increase the revenue  
20 payable from taxes on real property above the limitations provided by this section by the  
21 percentage increase of value resulting from any improvements or change in use of real property,  
22 annexation, minor boundary changes, and any adjustments in taxation of real property separately  
23 classified and subject to statutory adjustments and reductions under chapters 10-4, 10-6, 10-6A,  
24 and 10-6B, except § 10-6-31.4, only if assessed the same as property of equal value.

1 Any school district created or reorganized after January 1, 2009, is exempt from the  
2 limitation provided by this section for a period of two years immediately following its creation.

3 For taxes payable in 2012, 2013, 2014, ~~and~~ 2015, 2016, and 2017, the total amount of  
4 revenue payable from the levy provided in this section may not increase more than the lesser of  
5 three percent or the index factor, as defined in § 10-13-38, over the maximum amount of  
6 revenue that could have been generated for the taxes payable in 2010 plus any unused index  
7 factor from the previous years. After applying the index factor, a school district may increase  
8 the revenue payable from taxes on real property above the limitations provided by this section  
9 by the percentage increase of value resulting from any improvements or change in use of real  
10 property, annexation, minor boundary changes, and any adjustments in taxation of real property  
11 separately classified and subject to statutory adjustments and reductions under chapters 10-4,  
12 10-6, 10-6A, and 10-6B, except § 10-6-31.4, only if assessed the same as property of equal  
13 value.

14 For taxes payable in 2011, 2012, 2013, 2014, ~~and~~ 2015, 2016, and 2017, the levy limitation  
15 of one dollar and forty cents per thousand dollars of taxable valuation does not apply to any  
16 school district.

17 Section 4. That § 13-37-35.1 be amended to read as follows:

18 13-37-35.1. Terms used in chapter 13-37 mean:

- 19 (1) "Level one disability," a mild disability;
- 20 (2) "Level two disability," cognitive disability or emotional disorder;
- 21 (3) "Level three disability," hearing impairment, deafness, visual impairment, deaf-  
22 blindness, orthopedic impairment, or traumatic brain injury;
- 23 (4) "Level four disability," autism;
- 24 (5) "Level five disability," multiple disabilities;

- 1 (5A) "Level six disability," prolonged assistance;
- 2 (6) "Index factor," is the annual percentage change in the consumer price index for urban  
3 wage earners and clerical workers as computed by the Bureau of Labor Statistics of  
4 the United States Department of Labor for the year before the year immediately  
5 preceding the year of adjustment or three percent, whichever is less;
- 6 (7) "Local effort," shall be calculated for taxes payable in 2011 and shall be the amount  
7 of revenue that could have been generated for the taxes payable in 2010 using a  
8 special education levy of one dollar and twenty cents per one thousand dollars of  
9 valuation increased by the lesser of three percent or the index factor, as defined in  
10 § 10-13-38, plus a percentage increase of value resulting from any improvements or  
11 change in use of real property, annexation, minor boundary changes, and any  
12 adjustments in taxation of real property separately classified and subject to statutory  
13 adjustments and reductions under chapters 10-4, 10-6, 10-6A, and 10-6B, except  
14 § 10-6-31.4, only if assessed the same as property of equal value.
- 15 For taxes payable in 2012, 2013, 2014, ~~and 2015~~, 2016, and 2017, the total amount  
16 of local effort shall be increased by the lesser of three percent or the index factor,  
17 established pursuant to § 10-13-38 plus a percentage increase of value resulting from  
18 any improvements or change in use of real property, annexation, minor boundary  
19 changes, and any adjustments in taxation of real property separately classified and  
20 subject to statutory adjustments and reductions under chapters 10-4, 10-6, 10-6A, and  
21 10-6B, except § 10-6-31.4, only if assessed the same as property of equal value;
- 22 (8) "Allocation for a student with a level one disability," for the school fiscal year  
23 beginning July 1, 2008, is \$4,057. For each school year thereafter, the allocation for  
24 a student with a level one disability shall be the previous fiscal year's allocation for

1 such child increased by the lesser of the index factor or three percent;

2 (9) "Allocation for a student with a level two disability," for the school fiscal year  
3 beginning July 1, 2008, is \$9,471. For each school year thereafter, the allocation for  
4 a student with a level two disability shall be the previous fiscal year's allocation for  
5 such child increased by the lesser of the index factor or three percent;

6 (10) "Allocation for a student with a level three disability," for the school fiscal year  
7 beginning July 1, 2008, is \$15,220. For each school year thereafter, the allocation for  
8 a student with a level three disability shall be the previous fiscal year's allocation for  
9 such child increased by the lesser of the index factor or three percent;

10 (11) "Allocation for a student with a level four disability," for the school fiscal year  
11 beginning July 1, 2008, is \$13,164. For each school year thereafter, the allocation for  
12 a student with a level four disability shall be the previous fiscal year's allocation for  
13 such child increased by the lesser of the index factor or three percent;

14 (12) "Allocation for a student with a level five disability," for the school fiscal year  
15 beginning July 1, 2008, is \$16,539. For each school year thereafter, the allocation for  
16 a student with a level five disability shall be the previous fiscal year's allocation for  
17 such child increased by the lesser of the index factor or three percent;

18 (12A) "Allocation for a student with a level six disability," for the school fiscal year  
19 beginning July 1, 2008, is \$8,438. For each school year thereafter, the allocation for  
20 a student with a level six disability shall be the previous fiscal year's allocation for  
21 such child increased by the lesser of the index factor or three percent;

22 (13) "Child count," is the number of students in need of special education or special  
23 education and related services according to criteria set forth in rules promulgated  
24 pursuant to §§ 13-37-1.1 and 13-37-46 submitted to the Department of Education in

1 accordance with rules promulgated pursuant to § 13-37-1.1;

2 (14) "Fall enrollment," the number of kindergarten through twelfth grade pupils enrolled  
3 in all schools operated by the school district on the last Friday of September of the  
4 previous school year minus the number of students for whom the district receives  
5 tuition, except any nonresident student who is in the care and custody of a state  
6 agency and is attending a public school and any student for whom tuition is being  
7 paid pursuant to § 13-28-42.1, plus the number of students for whom the district pays  
8 tuition;

9 (15) "Nonpublic school," a sectarian organization or entity which is accredited by the  
10 secretary of education for the purpose of instructing children of compulsory school  
11 age. This definition excludes any school that receives a majority of its revenues from  
12 public funds;

13 (16) "Nonpublic fall enrollment," until June 30, 2008, the number of children under age  
14 sixteen, and beginning July 1, 2009, the number of children under age eighteen, who  
15 are approved for alternative instruction pursuant to § 13-27-2 on the last Friday of  
16 September of the previous school year plus:

17 (a) For nonpublic schools located within the boundaries of a public school district  
18 with a fall enrollment of six hundred or more on the last Friday of September  
19 of the previous school year, the number of kindergarten through twelfth grade  
20 pupils enrolled on the last Friday of September of the previous regular school  
21 year in all nonpublic schools located within the boundaries of the public  
22 school district;

23 (b) For nonpublic schools located within the boundaries of a public school district  
24 with a fall enrollment of less than six hundred on the last Friday of September

1 of the previous school year, the number of resident kindergarten through  
2 twelfth grade pupils enrolled on the last Friday of September of the previous  
3 school year in all nonpublic schools located within the State of South Dakota;

4 (17) "Special education fall enrollment," fall enrollment plus nonpublic fall enrollment;

5 (18) "Local need," an amount to be determined as follows:

6 (a) Multiply the special education fall enrollment by 0.1062 and multiply the  
7 result by the allocation for a student with a level one disability;

8 (b) Multiply the number of students having a level two disability as reported on  
9 the child count for the previous school fiscal year by the allocation for a  
10 student with a level two disability;

11 (c) Multiply the number of students having a level three disability as reported on  
12 the child count for the previous school fiscal year by the allocation for a  
13 student with a level three disability;

14 (d) Multiply the number of students having a level four disability as reported on  
15 the child count for the previous school fiscal year by the allocation for a  
16 student with a level four disability;

17 (e) Multiply the number of students having a level five disability as reported on  
18 the child count for the previous school fiscal year by the allocation for a  
19 student with a level five disability;

20 (f) Multiply the number of students having a level six disability as reported on the  
21 child count for the previous school fiscal year by the allocation for a student  
22 with a level six disability;

23 (g) Sum the results of (a) through (f);

24 (19) "Effort factor," for taxes payable in 2011, 2012, 2013, 2014, ~~and~~ 2015, 2016, and

1           2017, the effort factor is the amount of taxes payable for the year divided by the  
2           amount of local effort as calculated in subdivision (7). The maximum effort factor  
3           is 1.0.

4           Section 5. That § 13-16-7.1 be amended to read as follows:

5           13-16-7.1. For taxes payable in 2011, 2012, 2013, 2014, ~~and~~ 2015, 2016, and 2017, the  
6           provisions of §§ 13-10-6, 13-16-7, 13-37-16, and 13-37-35.1 that limit the maximum amount  
7           of revenue that may be generated by the pension, capital outlay, and special education tax levies  
8           do not apply to any school district that has less than a ten percent change in the total taxable  
9           valuation from the previous year of all real property in the school district, not including the  
10          increase of value resulting from any improvements or change in use of real property.