

State of South Dakota

EIGHTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2014

400V0333

SENATE BILL NO. 38

Introduced by: The Committee on Appropriations at the request of the Department of
Education

1 FOR AN ACT ENTITLED, An Act to revise the state aid to special education formula.

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

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

4 13-37-16. For taxes payable in ~~2014~~ 2015, and each year thereafter, the school board shall
5 levy no more than one dollar and ~~fifty-five and two~~ forty-seven and eight tenths cents per
6 thousand dollars of taxable valuation, as a special levy in addition to all other levies authorized
7 by law for the amount so determined to be necessary, and such levy shall be spread against all
8 of the taxable property of the district. The proceeds derived from such levy shall constitute a
9 school district special education fund of the district for the payment of costs for the special
10 education of all children in need of special education or special education and related services
11 who reside within the district pursuant to the provisions of §§ 13-37-8.2 to 13-37-8.10,
12 inclusive. The levy in this section shall be based on valuations such that the median level of
13 assessment represents 85% of market value as determined by the Department of Revenue. The
14 total amount of taxes that would be generated at the levy pursuant to this section shall be
15 considered local effort. Money in the special education fund may be expended for the purchase



1 or lease of any assistive technology that is directly related to special education and specified in
2 a student's individualized education plan. This section does not apply to real property
3 improvements.

4 Section 2. That § 13-37-35.1 be amended to read as follows:

5 13-37-35.1. Terms used in chapter 13-37 mean:

- 6 (1) "Level one disability," a mild disability;
- 7 (2) "Level two disability," cognitive disability or emotional disorder;
- 8 (3) "Level three disability," hearing impairment, deafness, visual impairment, deaf-
9 blindness, orthopedic impairment, or traumatic brain injury;
- 10 (4) "Level four disability," autism;
- 11 (5) "Level five disability," multiple disabilities;
- 12 (5A) "Level six disability," prolonged assistance;
- 13 (6) "Index factor," is the annual percentage change in the consumer price index for urban
14 wage earners and clerical workers as computed by the Bureau of Labor Statistics of
15 the United States Department of Labor for the year before the year immediately
16 preceding the year of adjustment or three percent, whichever is less;
- 17 (7) "Local effort," shall be calculated for taxes payable in ~~2014~~ 2015 and thereafter using
18 a special education levy of one dollar and ~~thirty-five and two~~ twenty-seven and eight
19 tenths cents per one thousand dollars of valuation;
- 20 (8) "Allocation for a student with a level one disability," for the school fiscal year
21 beginning July 1, ~~2012~~ 2014, is ~~\$4,525~~ \$4,800.57. For each school year thereafter,
22 the allocation for a student with a level one disability shall be the previous fiscal
23 year's allocation for such child increased by the lesser of the index factor or three
24 percent;

1 (9) "Allocation for a student with a level two disability," for the school fiscal year
2 beginning July 1, ~~2012~~ 2014, is ~~\$11,124~~ \$11,801.45. For each school year thereafter,
3 the allocation for a student with a level two disability shall be the previous fiscal
4 year's allocation for such child increased by the lesser of the index factor or three
5 percent;

6 (10) "Allocation for a student with a level three disability," for the school fiscal year
7 beginning July 1, ~~2012~~ 2014, is ~~\$14,788~~ \$15,688.59. For each school year thereafter,
8 the allocation for a student with a level three disability shall be the previous fiscal
9 year's allocation for such child increased by the lesser of the index factor or three
10 percent;

11 (11) "Allocation for a student with a level four disability," for the school fiscal year
12 beginning July 1, ~~2012~~ 2014, is ~~\$13,204~~ \$14,008.12. For each school year thereafter,
13 the allocation for a student with a level four disability shall be the previous fiscal
14 year's allocation for such child increased by the lesser of the index factor or three
15 percent;

16 (12) "Allocation for a student with a level five disability," for the school fiscal year
17 beginning July 1, ~~2012~~ 2014, is ~~\$19,993~~ \$21,210.57. For each school year thereafter,
18 the allocation for a student with a level five disability shall be the previous fiscal
19 year's allocation for such child increased by the lesser of the index factor or three
20 percent;

21 (12A) "Allocation for a student with a level six disability," for the school fiscal year
22 beginning July 1, ~~2012~~ 2014, is ~~\$7,205~~ \$7,643.78. For each school year thereafter,
23 the allocation for a student with a level six disability shall be the previous fiscal
24 year's allocation for such child increased by the lesser of the index factor or three

1 percent;

2 (13) "Child count," is the number of students in need of special education or special
3 education and related services according to criteria set forth in rules promulgated
4 pursuant to §§ 13-37-1.1 and 13-37-46 submitted to the Department of Education in
5 accordance with rules promulgated pursuant to § 13-37-1.1;

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

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

17 (16) "Nonpublic fall enrollment," until June 30, 2008, the number of children under age
18 sixteen, and beginning July 1, 2009, the number of children under age eighteen, who
19 are 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 grade
24 pupils enrolled on the last Friday of September of the previous regular school

1 year in all nonpublic schools located within the boundaries of the public
2 school district;

3 (b) For nonpublic schools located within the boundaries of a public school district
4 with a fall enrollment of less than six hundred on the last Friday of September
5 of the previous school year, the number of resident kindergarten through
6 twelfth grade pupils enrolled on the last Friday of September of the previous
7 school year in all nonpublic schools located within the State of South Dakota;

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

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

10 (a) Multiply the special education fall enrollment by 0.1004 and multiply the
11 result by the allocation for a student with a level one disability;

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

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

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

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

24 (f) Multiply the number of students having a level six disability as reported on the

1 child count for the previous school fiscal year by the allocation for a student
2 with a level six disability;

3 (g) When calculating local need at the statewide level, include the amount set
4 aside for extraordinary costs defined in § 13-37-40;

5 (h) Sum the results of (a) to (g), inclusive;

6 (19) "Effort factor," the school district's special education tax levy in dollars per thousand
7 divided by ~~\$1.352~~ \$1.278. The maximum effort factor is 1.0.