

# State of South Dakota

SEVENTY-SECOND SESSION  
LEGISLATIVE ASSEMBLY, 1997

456A0728

## HOUSE BILL NO. 1271

Introduced by: Representatives Weber and Schrempp and Senator Lange

1 FOR AN ACT ENTITLED, An Act to create a classification for family-farms and owner-  
2 operated commercial businesses, to revise and establish maximum property tax levies for  
3 certain property, to provide certain limited exemptions for owner-occupied dwellings and  
4 owner-operated commercial businesses, and to revise the rule-making authority of the  
5 Department of Revenue.

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

7 Section 1. That chapter 10-13 be amended by adding thereto a NEW SECTION to read as  
8 follows:

9 Each owner-operated commercial business in this state is specifically classified for the  
10 purpose of taxation. An owner-operated commercial business is owned by any person who is  
11 actively operating the business as their primary economic activity, shares in the risk of operating  
12 a business, and is entitled to share in the profits and losses of the business for which such  
13 classification is requested pursuant to section 2 of this Act. For the purposes of this section, an  
14 owner-operated commercial business is land, buildings, and structures, which are assessed and  
15 taxed as a separate unit, as recorded in the records of the director of equalization.

16 Section 2. That chapter 10-13 be amended by adding thereto a NEW SECTION to read as

1 follows:

2 To be eligible for a property tax classification pursuant to section 1 of this Act, the owner  
3 of each business shall submit a certificate to the county director of equalization stating such  
4 person is the owner of the property and that the owner meets the qualifications of an owner-  
5 operated commercial business. The owner shall submit the certificate by March fifteenth of each  
6 year beginning in 1998. The owner shall sign the certificate under penalty of perjury. The  
7 Department of Revenue shall prescribe the form of the certificate.

8 Section 3. That chapter 10-4 be amended by adding thereto a NEW SECTION to read as  
9 follows:

10 Ten thousand dollars of the full and true value of the property specifically classified pursuant  
11 to section 1 of this Act date is exempt from taxation for the general fund of a school district  
12 pursuant to §§ 10-12-42 and 13-13-10.1. No person may receive more than one ten thousand  
13 dollar exemption pursuant to this section for any owner-operated commercial business. No  
14 property classified as an owner-operated commercial business may receive more than one ten  
15 thousand dollar exemption pursuant to this section.

16 Section 4. That chapter 10-4 be amended by adding thereto a NEW SECTION to read as  
17 follows:

18 Five thousand dollars of the full and true value of any owner-occupied single-family dwelling  
19 as defined in § 10-13-39 is exempt from taxation from the levy for the general fund of a school  
20 district pursuant to §§ 10-12-42 and 13-13-10.1 . No person may receive more than one five  
21 thousand dollar exemption pursuant to this section for any owner-occupied single-family  
22 dwelling.

23 Section 5. That chapter 10-13 be amended by adding thereto a NEW SECTION to read as  
24 follows:

25 Each family-farm in this state is specifically classified for the purpose of taxation. A family-

1 farm is owned by any person who is actively operating the farm or ranch as their primary  
2 economic activity, shares in the risk of producing agricultural products, and is entitled to share  
3 in the agricultural products available for marketing from the farm or ranch, or would have shared  
4 had the agricultural products been produced for which such classification is requested pursuant  
5 to section 6 of this Act. For the purposes of this section, a family-farm is agricultural land,  
6 buildings, and structures, which are assessed and taxed as a separate unit, as recorded in the  
7 records of the director of equalization. All other agricultural land, buildings, and structures are  
8 specifically classified as other agricultural property for the purpose of taxation.

9 Section 6. That chapter 10-13 be amended by adding thereto a NEW SECTION to read as  
10 follows:

11 To be eligible for a property tax classification pursuant to section 5 of this Act, the owner  
12 of each family-farm shall submit a certificate to the county director of equalization stating such  
13 person is the owner of the property and that the owner meets the qualifications of a family-farm.  
14 The owner shall submit the certificate by March fifteenth of each year beginning in 1998. The  
15 owner shall sign the certificate under penalty of perjury. The Department of Revenue shall  
16 prescribe the form of the certificate.

17 Section 7. That § 10-13-21 be amended to read as follows:

18 10-13-21. The secretary of revenue may promulgate rules pursuant to chapter 1-26  
19 ~~governing the administration of this chapter to administer the property tax reduction program~~  
20 and the tax levy for the general fund of a school district pursuant to § 10-12-42, concerning:

- 21 (1) The definition of an owner-occupied dwelling;
- 22 (2) The definition of an owner-operated commercial business;
- 23 (3) The definition of a family-farm;
- 24 (4) The requirements of reporting ownership of property;
- 25 (5) An appeal process.

1 Section 8. That § 10-12-42 be amended to read as follows:

2 10-12-42. For taxes payable in 1997 and each year thereafter, the levy for the general fund  
3 of a school district shall be as follows:

4 (1) The maximum tax levy shall be sixteen dollars and seventy-five cents per thousand  
5 dollars of taxable valuation subject to the limitations on family-farm agricultural  
6 property as provided in subdivision (2) of this section ~~and~~, owner-occupied property  
7 as provided for in subdivision (3) of this section, owner-operated commercial property  
8 as provided for in subdivision (4) of this section, and other agricultural property as  
9 provided for in subdivision (5) of this section;

10 (2) The maximum tax levy ~~on agricultural property~~ for a family-farm as defined in section  
11 5 of this Act for such school district shall be five dollars and ~~seventy-five~~ fifty cents  
12 per thousand dollars of taxable valuation. If the district's levies are less than the  
13 maximum levies ~~as stated in chapter 10-13~~, the levies shall maintain the same  
14 proportion to each other as represented in the mathematical relationship at the  
15 maximum levies;

16 (3) The maximum tax levy for an owner-occupied single-family dwelling as defined in  
17 § 10-13-40, for such school district ~~may not exceed~~ shall be nine dollars and twenty  
18 cents per thousand dollars of taxable valuation. If the district's levies are less than the  
19 maximum levies ~~as stated in chapter 10-13~~, the levies shall maintain the same  
20 proportion to each other as represented in the mathematical relationship at the  
21 maximum levies;

22 (4) The tax levy for owner-operated commercial property as defined in section 1 of this  
23 Act, for the school district shall be sixteen dollars and seventy-five cents per thousand  
24 dollars of taxable valuation. If the district's levies are less than the maximum levies,  
25 the levies shall maintain the same proportion to each other as represented in the

1 mathematical relationship at the maximum;

2 (5) The tax levy for other agricultural property as defined in section 5 of this Act, for the  
3 school district shall be eight dollars per thousand dollars of taxable valuation. If the  
4 district's levies are less than the maximum levies, the levies shall maintain the same  
5 proportion to each other as represented in the mathematical relationship at the  
6 maximum levies.

7 All levies in this section shall be imposed on valuations where the median level of assessment  
8 represents eighty-five percent of market value as determined by the Department of Revenue.  
9 These valuations shall be used for all school funding purposes. If the district has imposed an  
10 excess levy pursuant to § 10-13-43, the levies shall maintain the same proportion to each other  
11 as represented in the mathematical relationship at the maximum levies in this section. The school  
12 district may elect to tax at less than the maximum amounts set forth in this section.

13 Section 9. That § 13-13-10.1 be amended to read as follows:

14 13-13-10.1. Terms used in this chapter mean:

15 (1) "Average daily membership," the average number of kindergarten through twelfth  
16 grade pupils enrolled in the school district during the previous regular school year,  
17 minus average number of pupils for whom the district receives tuition, except pupils  
18 described in subdivision (1A) and plus the average number of pupils for whom the  
19 district pays tuition;

20 (1A) Nonresident students who are in the care and custody of the Department of Social  
21 Services, the Unified Judicial System, or other state agencies and are attending a  
22 public school may be included in the average daily membership of the receiving  
23 district when enrolled in the receiving district for more than thirty school days. When  
24 counting a student who meets these criteria in its average daily membership, the  
25 receiving district may begin the enrollment on the first day of attendance. The district

1 of residence prior to the custodial transfer may not include students who meet these  
2 criteria in its average daily membership after the student ceases to attend school in the  
3 resident district for more than thirty school days;

4 (2) "Adjusted average daily membership," calculated as follows:

5 (a) For districts with an average daily membership of two hundred or less, multiply  
6 1.2 times the average daily membership;

7 (b) For districts with an average daily membership of less than six hundred, but  
8 greater than two hundred, raise the average daily membership to the 0.8293  
9 power and multiply the result times 2.98;

10 (c) For districts with an average daily membership of six hundred or more,  
11 multiply 1.0 times their average daily membership;

12 (3) "Index factor," is the annual percentage change in the consumer price index for urban  
13 wage earners and clerical workers as computed by the Bureau of Labor Statistics of  
14 the United States Department of Labor for the year before the year immediately  
15 preceding the year of adjustment or three percent, whichever is less;

16 (4) "Per student allocation," for the period January 1, 1997, to June 30, 1997, inclusive,  
17 is \$1,675. For school fiscal year 1998, beginning on July 1, 1997, the per student  
18 allocation shall be \$3,350 increased by the index factor. Each school fiscal year  
19 thereafter, the per student allocation shall be the previous fiscal year's per student  
20 allocation increased by the index factor;

21 (5) "Local need," the per student allocation multiplied by the adjusted average daily  
22 membership;

23 (6) "Local effort," the amount of ad valorem taxes generated in a school fiscal year by  
24 applying the following levies:

25 (a) The levy for school district purposes is sixteen dollars and seventy-five cents

1 per thousand dollars of taxable valuation subject to the limitations on  
 2 ~~agricultural property~~ family-farms as provided in subsection (b) ~~and,~~  
 3 owner-occupied property as provided in subsection (c), and owner-operated  
 4 commercial property as provided in subsection (d), and other agricultural  
 5 property as provided in subsection (e);

6 (b) The tax levy ~~on agricultural property~~ for family-farms for the school district is  
 7 five dollars and ~~seventy-five~~ fifty cents per thousand dollars of taxable  
 8 valuation;

9 (c) The tax levy for owner-occupied single-family dwelling for the school district  
 10 is nine dollars and twenty cents per thousand dollars of taxable valuation;

11 (d) The tax levy for owner-operated commercial property for the school district  
 12 is sixteen dollars and seventy-five cents per thousand dollars of taxable  
 13 valuation;

14 (e) The tax levy for other agricultural property for the school district is eight  
 15 dollars per thousand dollars of taxable valuation.

16 For the period January 1, 1997, to June 30, 1997, inclusive, local effort shall be  
 17 one-half of the amount of ad valorem taxes generated in calendar year 1997 by  
 18 applying the following levies:

19 (a) The levy for school district purposes is sixteen dollars and seventy-five cents  
 20 per thousand dollars of taxable valuation subject to the limitations on  
 21 agricultural property as provided in subsection (b) and, owner-occupied  
 22 property as provided in subsection (c);

23 (b) The tax levy on agricultural property for the school district is five dollars and  
 24 seventy-five cents per thousand dollars of taxable valuation;

25 (c) The tax levy for owner-occupied single-family dwelling for the school district

1                   is nine dollars and twenty cents per thousand dollars of taxable valuation.

2           All levies shall be based on valuations including valuations pursuant to § 13-13-10.2 and  
3 13-13-20.4 such that the median level of assessment represents eighty-five percent of market  
4 value as determined by the Department of Revenue. The total amount of taxes that would be  
5 generated at the levies pursuant to this section shall be considered local effort.

6           Section 10. The effective date of this Act is January 1, 1998.