

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

505D0190

## HOUSE BILL NO. 1058

Introduced by: Representatives Eccarius, Brooks, Brown (Richard), Davis, Duniphan, Fiegen, Hennies, Koetzle, Koskan, Peterson, and Richter and Senators Everist, Hainje, Madden, Munson (David), Olson, and Paisley

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to special education.

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

3 Section 1. That § 13-28-42 be amended to read as follows:

4 13-28-42. The ~~resident~~ nonresident district is responsible for the provision of a free  
5 appropriate public education for students in need of special education or special education and  
6 related services. Notwithstanding the provisions of § 13-28-44, a request to transfer a student  
7 in need of special education or special education and related services may be granted only if,  
8 through the placement committee process, the resident and nonresident districts determine that  
9 the nonresident district can provide an appropriate instructional program and facilities to meet  
10 the student's needs. ~~The resident district shall reimburse the nonresident district actual costs~~  
11 ~~incurred in providing an appropriate special education for a student in need of special education~~  
12 ~~and related services.~~ Notwithstanding the provisions of § 13-28-45, the placement committee,  
13 including representatives of the resident and nonresident districts, shall determine whether a  
14 student in need of special education requires transportation as a related service. If so, the resident  
15 nonresident district shall provide or ensure the provision of transportation within the boundaries  
16 of the attendance center to which the student is assigned.

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

2 13-37-35.1. Terms used in chapter 13-37 mean:

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

4 (2) "Level two disability," a mental retardation or emotional disorder;

5 (3) "Level three disability," hearing impairment, deafness, visual impairment,  
6 deaf-blindness, orthopedic impairment, or traumatic brain injury;

7 (4) "Level four disability," autism;

8 (5) "Level five disability," multiple disabilities;

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

13 (7) "Local effort," is the amount of taxes payable each year, using a levy for the special  
14 education fund of a school district of one dollar and thirty-five cents per thousand  
15 dollars of taxable valuation;

16 (8) "Allocation for a student with a level one disability," for the school fiscal year  
17 beginning July 1, 1999, is \$3,504. For each school year thereafter, the allocation for  
18 a student with a level one disability shall be the previous fiscal year's allocation for  
19 such child increased by the lesser of the index factor or three percent;

20 (9) "Allocation for a student with a level two disability," for the school fiscal year  
21 beginning July 1, 1999, is \$7,914. For each school year thereafter, the allocation for  
22 a student with a level two disability shall be the previous fiscal year's allocation for  
23 such child increased by the lesser of the index factor or three percent;

24 (10) "Allocation for a student with a level three disability," for the school fiscal year  
25 beginning July 1, 1999, is \$10,116. For each school year thereafter, the allocation for

1 a student with a level three disability shall be the previous fiscal year's allocation for  
2 such child increased by the lesser of the index factor or three percent;

3 (11) "Allocation for a student with a level four disability," for the school fiscal year  
4 beginning July 1, 1999, is \$14,705. For each school year thereafter, the allocation for  
5 a student with a level four disability shall be the previous fiscal year's allocation for  
6 such child increased by the lesser of the index factor or three percent;

7 (12) "Allocation for a student with a level five disability," for the school fiscal year  
8 beginning July 1, 1999, is \$15,808. For each school year thereafter, the allocation for  
9 a student with a level five disability shall be the previous fiscal year's allocation for  
10 such child increased by the lesser of the index factor or three percent;

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

15 (14) "Resident average daily membership," the average number of resident kindergarten  
16 through twelfth grade pupils enrolled in all schools operated by the school district  
17 during the previous regular school year plus the average number of pupils for whom  
18 the district pays tuition ~~and plus the average number of resident pupils enrolled in~~  
19 ~~another school district under the provisions of § 13-28-40;~~

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

24 (16) "Nonpublic average daily membership," the average number of kindergarten through  
25 twelfth grade pupils enrolled during the previous regular school year in all nonpublic

1 schools located within the boundaries of the public school district plus the average  
2 number of children under age sixteen who are approved for alternative instruction  
3 pursuant to § 13-27-2 during the previous school year;

4 (17) "Special education average daily membership," resident average daily membership  
5 plus nonpublic average daily membership;

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

7 (a) Multiply the special education average daily membership by 0.089 and multiply  
8 the result by the allocation for a student with a level one disability;

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

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

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

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

21 (f) Sum the results of (a) through (e);

22 (19) "Effort factor," the school district's special education tax levy in dollars per thousand  
23 divided by \$1.35. The maximum effort factor is 1.0.

24 If a parent or guardian of a student in need of special education or special education and  
25 related services wishes to transfer the student back to the resident district, the request shall be

- 1 considered by the placement committee. The committee must include representatives of the
- 2 resident and nonresident districts.