

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

400E0260

## HOUSE EDUCATION COMMITTEE ENGROSSED NO. **SB 60** - 02/27/2001

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

1 FOR AN ACT ENTITLED, An Act to expand the uses of the special education extraordinary  
2 cost fund.

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

4 Section 1. That § 13-37-48.1 be amended to read as follows:

5 13-37-48.1. In addition to the purposes specified in § 13-37-40, money set aside pursuant  
6 to § 13-37-40 may be used by the Department of Education and Cultural Affairs to establish and  
7 maintain a program to assist school districts with legal matters relating to special education, to  
8 employ personnel to audit school districts for compliance with the provisions of §§ 13-37-36.1  
9 to 13-37-52, to establish and maintain state protocols to assist school districts in developing  
10 individualized education plans, to support activities under Part C of the Individuals with  
11 Disabilities Education Act, Infants and Toddlers with Disabilities, or to purchase assistive  
12 technology for students with a level two, three, four, or five disability.

13 Any approved K-12 application under the extraordinary cost fund must be funded prior to  
14 funding the Part C requests.

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 (5A) "Level six disability," prolonged assistance;

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

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

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

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

1 (10) "Allocation for a student with a level three disability," for the school fiscal year  
2 beginning July 1, 1999, is \$10,116. For each school year thereafter, the allocation for  
3 a student with a level three disability shall be the previous fiscal year's allocation for  
4 such child increased by the lesser of the index factor or three percent;

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

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

13 (12A) "Allocation for a student with a level six disability," for the school fiscal year  
14 beginning July 2001, is \$1,608. For each school year thereafter, the allocation for a  
15 student with a level six disability shall be the previous fiscal year's allocation for such  
16 child increased by the lesser of the index factor or three percent;

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

21 (14) "Average daily membership," the average number of kindergarten through twelfth  
22 grade pupils enrolled in all schools operated by the school district during the previous  
23 regular school year plus the average number of pupils for whom the district pays  
24 tuition;

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

5 (16) "Nonpublic average daily membership," the average number of children under age  
6 sixteen who are approved for alternative instruction pursuant to § 13-27-2 during the  
7 previous school year plus:

8 (a) For nonpublic schools located within the boundaries of a public school district  
9 with an average daily membership of six hundred or more during the previous  
10 school year, the average number of kindergarten through twelfth grade pupils  
11 enrolled during the previous regular school year in all nonpublic schools  
12 located within the boundaries of the public school district;

13 (b) For nonpublic schools located within the boundaries of a public school district  
14 with an average daily membership of less than six hundred during the previous  
15 school year, the average number of resident kindergarten through twelfth grade  
16 pupils enrolled during the previous school year in all nonpublic schools located  
17 within the State of South Dakota;

18 (17) "Special education average daily membership," average daily membership plus  
19 nonpublic average daily membership;

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

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

23 (b) Multiply the number of students having a level two disability as reported on the  
24 child count for the previous school fiscal year by the allocation for a student

- 1 with a level two disability;
- 2 (c) Multiply the number of students having a level three disability as reported on
- 3 the child count for the previous school fiscal year by the allocation for a
- 4 student with a level three disability;
- 5 (d) Multiply the number of students having a level four disability as reported on the
- 6 child count for the previous school fiscal year by the allocation for a student
- 7 with a level four disability;
- 8 (e) Multiply the number of students having a level five disability as reported on the
- 9 child count for the previous school fiscal year by the allocation for a student
- 10 with a level five disability;
- 11 (f) Multiply the number of students having a level six disability as reported on the
- 12 child count for the previous school fiscal year by the allocation for a student
- 13 with a level six disability;
- 14 (g) Sum the results of (a) through ~~(e)~~ (f);
- 15 (19) "Effort factor," the school district's special education tax levy in dollars per thousand
- 16 divided by \$1.30. The maximum effort factor is 1.0.