

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

258P0045

## HOUSE STATE AFFAIRS ENGROSSED NO. **HB** **1006** - 1/28/2008

Introduced by: Representatives Rhoden, Boomgarden, Dennert, Juhnke, Noem, Sigdestad, and Vanneman and Senators Knudson, Hansen (Tom), Lintz, and Peterson (Jim) at the request of the Interim Property Tax Assessment Study Committee

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 § 13-13-72.1 be amended to read as follows:

5 13-13-72.1. Any adjustments in the levies specified in ~~subdivision 13-13-10.1(6)~~ § 10-12-42  
6 made pursuant to §§ 13-13-71 and 13-13-72 shall be based on maintaining the relationship  
7 between statewide local effort as a percentage of statewide local need in the fiscal year  
8 succeeding the fiscal year in which the adjustment is made. In addition to the adjustments in the  
9 levies provided by this section, the levies shall also be annually adjusted as necessary to reduce  
10 the portion of local need paid by local effort by an amount equal to nine million dollars from  
11 those funds transferred into the property tax reduction fund pursuant to § 10-50-52 subsequent  
12 to July 1, 2007. In addition to the adjustments in the levies provided by this section, the levies  
13 for nonagricultural property and owner-occupied single-family dwellings shall also be adjusted



1 as necessary to account for the additional increase in the total assessed value for nonagricultural  
2 property and owner-occupied single-family dwellings pursuant to the phasing out and repeal of  
3 the provisions provided in § 10-6-74.

4 Section 2. 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 districts which shall have~~ district that has established such system, ~~such~~  
7 ~~districts~~ the school district may levy an annual tax not exceeding thirty cents per thousand  
8 dollars of taxable valuation of ~~such~~ the school district for the current year. ~~Such~~ The levy may  
9 not be included in determining the tax levy limitation of ~~such~~ the school district provided by  
10 law. Moneys collected from ~~such~~ the tax shall be kept by the business manager in a special  
11 pension fund and ~~shall~~ may not be used for any other purpose except upon discontinuance of  
12 ~~such~~ the pension system by the school district, in which case any unexpended balance shall be  
13 transferred to the general fund.

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.

23 For taxes payable in 2012, 2013, 2014, and 2015, the total amount of revenue payable from  
24 the levy provided in this section may not increase more than the lesser of three percent or the

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

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

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

13 Section 3. That § 13-16-7 be amended to read as follows:

14 13-16-7. The school board of any school district of this state may at its discretion authorize  
15 an annual levy of a tax not to exceed three dollars per thousand dollars of taxable valuation on  
16 the taxable valuation of the district for the capital outlay fund for assets as defined by § 13-16-6  
17 or for its obligations under a resolution, lease-purchase agreement, capital outlay certificate, or  
18 other arrangement with the Health and Educational Facilities Authority. Taxes collected  
19 pursuant to such levy may be irrevocably pledged by the school board to the payment of  
20 principal of and interest on installment purchase contracts or capital outlay certificates entered  
21 into or issued pursuant to § 13-16-6 or 13-16-6.2 or lease-purchase agreements or other  
22 arrangement with the Health and Educational Facilities Authority and, so long as any capital  
23 outlay certificates are outstanding, installment agreement payments, lease-purchase agreements,  
24 or other arrangements are unpaid, the school board of any district may be compelled by

1 mandamus or other appropriate remedy to levy an annual tax sufficient to pay principal and  
2 interest thereon, but not to exceed the three dollars per thousand dollars of taxable valuation in  
3 any year authorized to be levied hereby.

4 For taxes payable in 2011, the total amount of revenue payable from the levy provided in  
5 this section may not increase more than the lesser of three percent or the index factor, as defined  
6 in § 10-13-38, over the maximum amount of revenue that could have been generated for the  
7 taxes payable in 2010. After applying the index factor, a school district may increase the revenue  
8 payable from taxes on real property above the limitations provided by this section by the  
9 percentage increase of value resulting from any improvements or change in use of real property,  
10 annexation, minor boundary changes, and any adjustments in taxation of real property separately  
11 classified and subject to statutory adjustments and reductions under chapters 10-4, 10-6, 10-6A,  
12 and 10-6B, except § 10-6-31.4, only if assessed the same as property of equal value. A school  
13 district may increase the revenue it receives from taxes on real property above the limit provided  
14 by this section for taxes levied to pay the principal, interest, and redemption charges on any  
15 bonds issued after January 1, 2009, which are subject to referendum; for scheduled payment  
16 increases on bonds, and for a levy directed by the order of a court for the purpose of paying a  
17 judgment against the school district. Any school district created or reorganized after January 1,  
18 2009, is exempt from the limitation provided by this section for a period of two years  
19 immediately following its creation.

20 For taxes payable in 2012, 2013, 2014, and 2015, the total amount of revenue payable from  
21 the levy provided in this section may not increase more than the lesser of three percent or the  
22 index factor, as defined in § 10-13-38, over the maximum amount of revenue that could have  
23 been generated for the taxes payable in 2010 plus any unused index factor from the previous  
24 years. After applying the index factor, a school district may increase the revenue payable from

1 taxes on real property above the limitations provided by this section by the percentage increase  
2 of value resulting from any improvements or change in use of real property, annexation, minor  
3 boundary changes, and any adjustments in taxation of real property separately classified and  
4 subject to statutory adjustments and reductions under chapters 10-4, 10-6, 10-6A, and 10-6B,  
5 except § 10-6-31.4, only if assessed the same as property of equal value. A school district may  
6 increase the revenue it receives from taxes on real property above the limit provided by this  
7 section for taxes levied to pay the principal, interest, and redemption charges on any bonds  
8 issued after January 1, 2009, which are subject to referendum, scheduled payment increases on  
9 bonds and for a levy directed by the order of a court for the purpose of paying a judgment  
10 against such school district. Any school district created or reorganized after January 1, 2009, is  
11 exempt from the limitation provided by this section for a period of two years immediately  
12 following its creation.

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

15 Section 4. That § 13-37-16 be amended to read as follows:

16 13-37-16. For taxes payable in 1997, and each year thereafter, the school board shall levy  
17 no more than one dollar and forty cents per thousand dollars of taxable valuation, as a special  
18 levy in addition to all other levies authorized by law for the amount so determined to be  
19 necessary, and such levy shall be spread against all of the taxable property of the district. The  
20 proceeds derived from such levy shall constitute a school district special education fund of the  
21 district for the payment of costs for the special education of all children in need of special  
22 education or special education and related services who reside within the district pursuant to the  
23 provisions of §§ 13-37-8.2 to 13-37-8.10, inclusive. The levy in this section shall be based on  
24 valuations such that the median level of assessment represents 85% of market value as

1 determined by the Department of Revenue and Regulation. The total amount of taxes that would  
2 be generated at the levy pursuant to this section shall be considered local effort. Money in the  
3 special education fund may be expended for the purchase or lease of any assistive technology  
4 that is directly related to special education and specified in a student's individualized education  
5 plan. This section does not apply to real property improvements.

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

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

17 For taxes payable in 2012, 2013, 2014, and 2015, the total amount of revenue payable from  
18 the levy provided in this section may not increase more than the lesser of three percent or the  
19 index factor, as defined in § 10-13-38, over the maximum amount of revenue that could have  
20 been generated for the taxes payable in 2010 plus any unused index factor from the previous  
21 years. After applying the index factor, a school district may increase the revenue payable from  
22 taxes on real property above the limitations provided by this section by the percentage increase  
23 of value resulting from any improvements or change in use of real property, annexation, minor  
24 boundary changes, and any adjustments in taxation of real property separately classified and

1 subject to statutory adjustments and reductions under chapters 10-4, 10-6, 10-6A, and 10-6B,  
2 except § 10-6-31.4, only if assessed the same as property of equal value.

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

5 Section 5. That § 13-37-35.1 be amended to read as follows:

6 13-37-35.1. Terms used in chapter 13-37 mean:

- 7 (1) "Level one disability," a mild disability;
- 8 (2) "Level two disability," a mental retardation or emotional disorder;
- 9 (3) "Level three disability," hearing impairment, deafness, visual impairment, deaf-  
10 blindness, orthopedic impairment, or traumatic brain injury;
- 11 (4) "Level four disability," autism;
- 12 (5) "Level five disability," multiple disabilities;
- 13 (5A) "Level six disability," prolonged assistance;
- 14 (6) "Index factor," is the annual percentage change in the consumer price index for urban  
15 wage earners and clerical workers as computed by the Bureau of Labor Statistics of  
16 the United States Department of Labor for the year before the year immediately  
17 preceding the year of adjustment or three percent, whichever is less;
- 18 (7) "Local effort," shall be calculated for taxes payable in 2006 and thereafter using a  
19 ~~special education levy of one dollar and twenty cents per one thousand dollars of~~  
20 ~~valuation~~ 2011 and shall be the amount of revenue that could have been generated  
21 for the taxes payable in 2010 using a special education levy of one dollar and twenty  
22 cents per one thousand dollars of valuation increased by the lesser of three percent  
23 or the index factor, as defined in § 10-13-38, plus a percentage increase of value  
24 resulting from any improvements or change in use of real property, annexation, minor

1 boundary changes, and any adjustments in taxation of real property separately  
2 classified and subject to statutory adjustments and reductions under chapters 10-4,  
3 10-6, 10-6A, and 10-6B, except § 10-6-31.4, only if assessed the same as property  
4 of equal value.

5 For taxes payable in 2012, 2013, 2014, and 2015, the total amount of local effort  
6 shall be increased by the lesser of three percent or the index factor, established  
7 pursuant to § 10-13-38 plus a percentage increase of value resulting from any  
8 improvements or change in use of real property, annexation, minor boundary  
9 changes, and any adjustments in taxation of real property separately classified and  
10 subject to statutory adjustments and reductions under chapters 10-4, 10-6, 10-6A, and  
11 10-6B, except § 10-6-31.4, only if assessed the same as property of equal value;

12 (8) "Allocation for a student with a level one disability," for the school fiscal year  
13 beginning July 1, 2004, is \$ 3,533.13. For each school year thereafter, the allocation  
14 for a student with a level one disability shall be the previous fiscal year's allocation  
15 for such child increased by the lesser of the index factor or three percent;

16 (9) "Allocation for a student with a level two disability," for the school fiscal year  
17 beginning July 1, 2004, is \$ 8,277.21. For each school year thereafter, the allocation  
18 for a student with a level two disability shall be the previous fiscal year's allocation  
19 for such child increased by the lesser of the index factor or three percent;

20 (10) "Allocation for a student with a level three disability," for the school fiscal year  
21 beginning July 1, 2004, is \$ 12, 580.73. For each school year thereafter, the allocation  
22 for a student with a level three disability shall be the previous fiscal year's allocation  
23 for such child increased by the lesser of the index factor or three percent;

24 (11) "Allocation for a student with a level four disability," for the school fiscal year

1 beginning July 1, 2004, is \$ 12, 001.80. For each school year thereafter, the allocation  
2 for a student with a level four disability shall be the previous fiscal year's allocation  
3 for such child increased by the lesser of the index factor or three percent;

4 (12) "Allocation for a student with a level five disability," for the school fiscal year  
5 beginning July 1, 2004, is \$ 15, 882.21. For each school year thereafter, the allocation  
6 for a student with a level five disability shall be the previous fiscal year's allocation  
7 for such child increased by the lesser of the index factor or three percent;

8 (12A) "Allocation for a student with a level six disability," for the school fiscal year  
9 beginning July 2004, is \$8,122.23. For each school year thereafter, the allocation for  
10 a student with a level six disability shall be the previous fiscal year's allocation for  
11 such child increased by the lesser of the index factor or three percent;

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

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

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

24 (16) "Nonpublic average daily membership," the average number of children under age

1 sixteen who are approved for alternative instruction pursuant to § 13-27-2 during the  
2 previous school year plus:

3 (a) For nonpublic schools located within the boundaries of a public school district  
4 with an average daily membership of six hundred or more during the previous  
5 school year, the average number of kindergarten through twelfth grade pupils  
6 enrolled during the previous regular school year in all nonpublic schools  
7 located within the boundaries of the public school district;

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

13 (17) "Special education average daily membership," average daily membership plus  
14 nonpublic average daily membership;

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

16 (a) Multiply the special education average daily membership by 0.1013 and  
17 multiply the result by the allocation for a student with a level one disability;

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

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

24 (d) Multiply the number of students having a level four disability as reported on

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

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

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

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

10 (19) "Effort factor," ~~the school district's special education tax levy in dollars per thousand~~  
11 ~~divided by \$1.20 for taxes payable in 2011, 2012, 2013, 2014, and 2015, the effort~~  
12 factor is the amount of taxes payable for the year divided by the amount of local  
13 effort as calculated in subdivision (7). The maximum effort factor is 1.0.