

# State of South Dakota

EIGHTIETH SESSION  
LEGISLATIVE ASSEMBLY, 2005

569L0202

## SENATE BILL NO. 72

Introduced by: Senators Olson (Ed), Dempster, Duniphan, Knudson, McCracken, Moore, Peterson (Jim), and Sutton (Dan) and Representatives Dykstra, Dennert, Elliott, Haley, Halverson, Hennies, Hunt, McLaughlin, Murschel, Roberts, and Thompson

1 FOR AN ACT ENTITLED, An Act to include legal costs as allowable expenditures from the  
2 special education fund.

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

4 Section 1. That § 13-16-32 be amended to read as follows:

5 13-16-32. The South Dakota Board of Education may promulgate rules pursuant to chapter  
6 1-26 to identify allowable expenditures from the special education fund. Legal costs incurred  
7 as a result of providing special education or special education and related services to any child  
8 served by the school district or for whom the district is financially responsible, including costs  
9 incurred for due process hearings, are allowable expenditures.

10 Section 2. That § 13-37-48 be repealed.

11 ~~13-37-48. Extraordinary expenses in §§ 13-37-39 and 13-37-40 include the following costs~~  
12 ~~associated with any special education due process hearing: the appointment of a hearing officer;~~  
13 ~~the hearing officer's preparation; conduct of the due process hearing; hearing officer's~~  
14 ~~preparation of the decision; and providing a copy of the tape recording to the opposing parties.~~



1 ~~Notwithstanding any other provision of law or administrative rule, neither a school district's~~  
2 ~~special education tax levy nor any other measure of a school district's finances may be~~  
3 ~~considered factors by an oversight board and the secretary of the Department of Education when~~  
4 ~~approving special education due process hearings costs as extraordinary expenses.~~