

State of South Dakota

EIGHTIETH SESSION LEGISLATIVE ASSEMBLY, 2005

569L0202

SENATE EDUCATION COMMITTEE ENGROSSED NO. **SB 72** - 01/27/2005

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 by a school district as a direct result of providing special education or special education and
8 related services to a child for whom the district is financially responsible are allowable
9 expenditures. The allowable expenditures may include any legal costs incurred by the school
10 district in the referral, evaluation, and placement processes as well as any other legal expenses
11 for which the district is determined to be legally responsible to pay as a result of due process
12 hearings.

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 That § 13-37-48 be repealed.

14 ~~13-37-48. Extraordinary expenses in §§ 13-37-39 and 13-37-40 include the following costs~~



1 ~~associated with any special education due process hearing; the appointment of a hearing officer;~~
2 ~~the hearing officer's preparation; conduct of the due process hearing; hearing officer's~~
3 ~~preparation of the decision; and providing a copy of the tape recording to the opposing parties.~~
4 ~~Notwithstanding any other provision of law or administrative rule, neither a school district's~~
5 ~~special education tax levy nor any other measure of a school district's finances may be~~
6 ~~considered factors by an oversight board and the secretary of the Department of Education when~~
7 ~~approving special education due process hearings costs as extraordinary expenses.~~