



## 2021 South Dakota Legislature

# Senate Bill 49

*Introduced by: The Committee on Appropriations at the request of the Bureau of Finance and Management*

1 **An Act to revise property tax levies for school districts and to revise the state aid to**  
 2 **general and special education formulas.**

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

4 **Section 1.** That § 10-12-42 be AMENDED.

5 **10-12-42. General fund of a school district--Annual levy.**

6 For taxes payable in ~~2021~~ 2022 and each year thereafter, the levy for the general  
 7 fund of a school district shall be as follows:

- 8 (1) The maximum tax levy shall be six dollars and ~~sixty-eight and two-tenths~~ fifty-two  
 9 and five-tenths cents per thousand dollars of taxable valuation subject to the  
 10 limitations on agricultural property as provided in subdivision (2) of this section and  
 11 owner-occupied property as provided in subdivision (3) of this section;
- 12 (2) The maximum tax levy on agricultural property for the school district shall be one  
 13 dollar and ~~forty-four and three-tenths~~ forty and nine-tenths cents per thousand  
 14 dollars of taxable valuation. If the district's levies are less than the maximum levies  
 15 as stated in this section, the levies shall maintain the same proportion to each other  
 16 as represented in the mathematical relationship at the maximum levies; and
- 17 (3) The maximum tax levy for an owner-occupied single-family dwelling as defined in  
 18 § 10-13-40 for the school district shall be three dollars and ~~twenty-two and nine-~~  
 19 ~~tenths~~ fifteen and three-tenths cents per thousand dollars of taxable valuation. If  
 20 the district's levies are less than the maximum levies as stated in this section, the  
 21 levies shall maintain the same proportion to each other as represented in the  
 22 mathematical relationship at the maximum levies.

23 All levies in this section shall be imposed on valuations where the median level of  
 24 assessment represents eighty-five percent of market value as determined by the  
 25 Department of Revenue. These valuations shall be used for all school funding purposes. If  
 26 the district has imposed an excess levy pursuant to § 10-12-43, the levies shall maintain

1 the same proportion to each other as represented in the mathematical relationship at the  
2 maximum levies in this section. The school district may elect to tax at less than the  
3 maximum amounts set forth in this section.

4 **Section 2.** That § 13-13-10.1 be AMENDED.

5 **13-13-10.1. Definitions.**

6 The education funding terms and procedures referenced in this chapter are defined  
7 as follows:

8 (1) Repealed by SL 2016, ch 83, § 4;

9 (1A) Nonresident students who are in the care and custody of the Department of Social  
10 Services, the Unified Judicial System, the Department of Corrections, or other state  
11 agencies and are attending a public school may be included in the fall enrollment of  
12 the receiving district when enrolled in the receiving district;

13 (2) Repealed by SL 2016, ch 83, § 4;

14 (2A) "Fall enrollment," is calculated as follows:

15 (a) Determine the number of kindergarten through twelfth grade students  
16 enrolled in all schools operated by the school district on the last Friday of  
17 September of the current school year;

18 (b) Subtract the number of students for whom the district receives tuition except  
19 for:

20 (i) Nonresident students who are in the care and custody of a state agency  
21 and are attending a public school district; and

22 (ii) Students who are being provided an education pursuant to § 13-28-  
23 11;

24 (c) Add the number of students for whom the district pays tuition.

25 When computing state aid to education for a school district pursuant to § 13-13-  
26 73, the secretary of the Department of Education shall use the school district's fall  
27 enrollment;

28 (2B) Repealed by SL 2010, ch 84, § 1;

29 (2C) "Target teacher ratio factor," is:

30 (a) For school districts with a fall enrollment of two hundred or less, the target  
31 teacher ratio factor is 12;

32 (b) For districts with a fall enrollment of greater than two hundred, but less than  
33 six hundred, the target teacher ratio factor is calculated as follows:

34 (1) Multiplying the fall enrollment by .00750;

- 1 (2) Adding 10.50 to the product of subsection (b)(1);
- 2 (c) For districts with a fall enrollment of six hundred or greater, the target teacher
- 3 ratio factor is 15.
- 4 The fall enrollment used for the determination of the target teacher ratio for a school
- 5 district may not include any students residing in a residential treatment facility
- 6 when the education program is operated by the school district;
- 7 (2D) "Limited English proficiency (LEP) adjustment," is calculated by multiplying 0.25
- 8 times the number of kindergarten through twelfth grade students who, in the prior
- 9 school year, scored below level four on the state-administered language proficiency
- 10 assessment as required in the state's consolidated state application pursuant to 20
- 11 USC § 6311(b)(7) as of January 1, 2013;
- 12 (3) "Index factor," is the annual percentage change in the consumer price index for
- 13 urban wage earners and clerical workers as computed by the Bureau of Labor
- 14 Statistics of the United States Department of Labor for the year before the year
- 15 immediately preceding the year of adjustment or three percent, whichever is less;
- 16 (4) "Target teacher salary," for the school fiscal year beginning July 1, ~~2020~~ 2021, is
- 17 ~~\$51,367.47~~ \$52,600.29. Each school fiscal year thereafter, the target teacher salary
- 18 is the previous fiscal year's target teacher salary increased by the index factor;
- 19 (4A) "Target teacher benefits," is the target teacher salary multiplied by twenty-nine
- 20 percent;
- 21 (4B) "Target teacher compensation," is the sum of the target teacher salary and the
- 22 target teacher benefits;
- 23 (4C) "Overhead rate," is ~~thirty-four and ninety-three~~ thirty-seven and thirty hundredths
- 24 percent.
- 25 Beginning in school fiscal year 2018, the overhead rate shall be adjusted to take
- 26 into account the sum of the amounts that districts exceed the other revenue base
- 27 amount;
- 28 (5) "Local need," is calculated as follows:
- 29 (a) Divide the fall enrollment by the target teacher ratio factor;
- 30 (b) If applicable, divide Limited English proficiency (LEP) adjustment pursuant to
- 31 subdivision (2D) by the target teacher ratio factor;
- 32 (c) Add the results of subsections (a) and (b);
- 33 (d) Multiply the result of subsection (c) by the target teacher compensation;
- 34 (e) Multiply the product of subsection (d) by the overhead rate;
- 35 (f) Add the products of subsections (d) and (e);

- 1 (g) When calculating local need at the statewide level, include the amounts set  
2 aside for costs related to technology in schools and statewide student  
3 assessments; and
- 4 (h) When calculating local need at the statewide level, include the amounts set  
5 aside for sparse school district benefits, calculated pursuant to §§ 13-13-78  
6 and 13-13-79;
- 7 (5A) "Alternative per student need," is calculated as follows:
- 8 (a) Add the total need for each school district for school fiscal year 2016,  
9 including the small school adjustment and the limited English proficiency  
10 adjustment, to the lesser of the amount of funds apportioned to each school  
11 district in the year preceding the most recently completed school fiscal year  
12 or school fiscal year 2015 pursuant to §§ 13-13-4, 23A-27-25, 10-33-24, 10-  
13 36-10, 11-7-73, 10-35-21, and 10-43-77;
- 14 (b) Divide the result of (a) by the September 2015 fall enrollment, excluding any  
15 adjustments based on prior year student counts;
- 16 (5B) "Alternative local need," is the alternative per student need multiplied by the fall  
17 enrollment, excluding any adjustments based on prior year student counts;
- 18 (6) "Local effort," the amount of ad valorem taxes generated in a school fiscal year by  
19 applying the levies established pursuant to § 10-12-42. Beginning on July 1, 2017,  
20 local effort will include the amount of funds apportioned to each school district in  
21 the year preceding the most recently completed school fiscal year pursuant to  
22 §§ 10-33-24, 10-35-21 as provided by subdivision (6B), 10-36-10, 10-43-77, 11-  
23 7-73, 13-13-4, and 23A-27-25 and that exceeds the other revenue base amount.  
24 For the period July 1, 2016, through December 31, 2016, inclusive, local effort  
25 includes the amount of ad valorem taxes generated by applying the levies  
26 established pursuant to § 13-10-6 during this period;
- 27 (6A) "Other revenue base amount," for school districts not utilizing the alternative local  
28 need calculation is the amount of funds apportioned to each school district pursuant  
29 to §§ 10-33-24, 10-35-21 as provided by subdivision (6B), 10-36-10, 10-43-77,  
30 11-7-73, 13-13-4, and 23A-27-25 calculated as follows:
- 31 (a) Beginning on July 1, 2017, equals the greatest of the amounts of the funds  
32 apportioned to each school district pursuant to §§ 10-33-24, 10-35-21 as  
33 provided by subdivision (6B), 10-36-10, 10-43-77, 11-7-73, 13-13-4, and  
34 23A-27-25 for school fiscal years 2013, 2014, and 2015;
- 35 (b) Beginning on July 1, 2018, multiply eighty percent times subsection (a);

- 1 (c) Beginning on July 1, 2019, multiply sixty percent times subsection (a);  
2 (d) Beginning on July 1, 2020, multiply forty percent times subsection (a);  
3 (e) Beginning on July 1, 2021, multiply twenty percent times subsection (a);  
4 (f) Beginning on July 1, 2022, is zero.

5 For school districts utilizing the alternative local need calculation, the other revenue  
6 base amount is zero until such time the school district chooses to no longer utilize  
7 the alternative local need calculation. At that time, the other revenue base amount  
8 is calculated as defined above.

9 For a school district created or reorganized after July 1, 2016, the other revenue  
10 base amount is the sum of the other revenue base amount for each district before  
11 reorganization, and the new school district may not utilize the alternative local  
12 need calculation.

13 In the case of the dissolution and annexation of a district, the other revenue base  
14 amount of the dissolved school district will be prorated based on the total number  
15 of students in the fall enrollment as defined in subdivision (2A) who attend each  
16 district to which area of the dissolved district were annexed to in the first year of  
17 reorganization. The amount apportioned for each district will be added to the  
18 annexed districts' other revenue base;

19 (6B) "Wind energy tax revenue," any wind energy tax revenue apportioned to school  
20 districts pursuant to § 10-35-21 from a wind farm producing power for the first time  
21 before July 1, 2016, shall be considered local effort pursuant to subdivision (6) and  
22 other revenue base amount pursuant to subdivision (6A). However, any wind  
23 energy tax revenue apportioned to a school district from a wind farm producing  
24 power for the first time after June 30, 2016, one hundred percent shall be retained  
25 by the school district to which the tax revenue is apportioned for the first five years  
26 of producing power, eighty percent for the sixth year, sixty percent for the seventh  
27 year, forty percent for the eighth year, twenty percent for the ninth year, and zero  
28 percent thereafter;

29 (7) "Per student equivalent," for funding calculations that are determined on a per  
30 student basis, the per student equivalent is calculated as follows:

- 31 (a) Multiply the target teacher compensation times the sum of one plus the  
32 overhead rate;  
33 (b) Divide subsection (a) by 15;

34 (8) "Monthly cash balance," the total amount of money for each month in the school  
35 district's general fund, calculated by adding all deposits made during the month to

1 the beginning cash balance and deducting all disbursements or payments made  
2 during the month;

- 3 (9) "General fund base percentage," is determined as follows:  
4 (a) Forty percent for a school district with a fall enrollment as defined in  
5 subdivision (2A) of two hundred or less;  
6 (b) Thirty percent for a school district with fall enrollment as defined in  
7 subdivision (2A) of more than two hundred but less than six hundred; and  
8 (c) Twenty-five percent for a school district with fall enrollment as defined in  
9 subdivision (2A) greater than or equal to six hundred.

10 When determining the general fund base percentage, the secretary of the  
11 Department of Education shall use the lesser of the school district's fall enrollment  
12 as defined in subdivision (2A) for the current school year or the school district's fall  
13 enrollment from the previous two years;

- 14 (10) "Allowable general fund cash balance," the general fund base percentage multiplied  
15 by the district's general fund expenditures in the previous school year.

16 **Section 3.** That § 13-37-16 be AMENDED.

17 **13-37-16. District tax levy for special education--School district special**  
18 **education fund.**

19 For taxes payable in ~~2021~~ 2022, and each year thereafter, the school board shall  
20 levy no more than one dollar and ~~sixty-eight and four-tenths~~ sixty-seven cents per  
21 thousand dollars of taxable valuation, as a special levy in addition to all other levies  
22 authorized by law for the amount so determined to be necessary, and the levy shall be  
23 spread against all of the taxable property of the district. The proceeds derived from the  
24 levy shall constitute a school district special education fund of the district for the payment  
25 of costs for the special education of all children in need of special education or special  
26 education and related services who reside within the district pursuant to the provisions of  
27 §§ 13-37-8.2 to 13-37-8.10, inclusive. The levy in this section shall be based on valuations  
28 such that the median level of assessment represents eighty-five percent of market value  
29 as determined by the Department of Revenue. The total amount of taxes that would be  
30 generated at the levy pursuant to this section shall be considered local effort. Money in  
31 the special education fund may be expended for the purchase or lease of any assistive  
32 technology that is directly related to special education and specified in a student's  
33 individualized education plan. This section does not apply to real property improvements.

1 **Section 4.** That § 13-37-35.1 be AMENDED.

2 **13-37-35.1. Definitions.**

3 Terms used in chapter 13-37 mean:

- 4 (1) "Level one disability," a mild disability;
- 5 (2) "Level two disability," cognitive disability or emotional disorder;
- 6 (3) "Level three disability," hearing impairment, deafness, visual impairment, deaf-
- 7 blindness, orthopedic impairment, or traumatic brain injury;
- 8 (4) "Level four disability," autism;
- 9 (5) "Level five disability," multiple disabilities;
- 10 (5A) "Level six disability," prolonged assistance;
- 11 (6) "Index factor," is the annual percentage change in the consumer price index for
- 12 urban wage earners and clerical workers as computed by the Bureau of Labor
- 13 Statistics of the United States Department of Labor for the year before the year
- 14 immediately preceding the year of adjustment or three percent, whichever is less;
- 15 (7) "Local effort," shall be calculated for taxes payable in ~~2021~~ 2022 and thereafter
- 16 using a special education levy of one dollar and ~~forty eight and four tenths~~ forty-
- 17 seven cents per one thousand dollars of valuation;
- 18 (8) "Allocation for a student with a level one disability," for the school fiscal year
- 19 beginning July 1, ~~2020~~ 2021, is ~~\$6,152~~ \$6,299.65. For each school year thereafter,
- 20 the allocation for a student with a level one disability shall be the previous fiscal
- 21 year's allocation for such child increased by the index factor;
- 22 (9) "Allocation for a student with a level two disability," for the school fiscal year
- 23 beginning July 1, ~~2020~~ 2021, is ~~\$14,655~~ \$15,006.72. For each school year
- 24 thereafter, the allocation for a student with a level two disability shall be the
- 25 previous fiscal year's allocation for such child increased by the index factor;
- 26 (10) "Allocation for a student with a level three disability," for the school fiscal year
- 27 beginning July 1, ~~2020~~ 2021, is ~~\$19,194~~ \$19,654.66. For each school year
- 28 thereafter, the allocation for a student with a level three disability shall be the
- 29 previous fiscal year's allocation for such child increased by the index factor;
- 30 (11) "Allocation for a student with a level four disability," for the school fiscal year
- 31 beginning July 1, ~~2020~~ 2021, is ~~\$15,405~~ \$15,774.72. For each school year
- 32 thereafter, the allocation for a student with a level four disability shall be the
- 33 previous fiscal year's allocation for such child increased by the index factor;
- 34 (12) "Allocation for a student with a level five disability," for the school fiscal year
- 35 beginning July 1, ~~2020~~ 2021, is ~~\$32,348~~ \$33,124.35. For each school year

- 1           thereafter, the allocation for a student with a level five disability shall be the  
2           previous fiscal year's allocation for such child increased by the index factor;
- 3       (12A) "Allocation for a student with a level six disability," for the school fiscal year  
4           beginning July 1, ~~2020~~ 2021, is ~~\$8,261~~ \$8,459.26. For each school year thereafter,  
5           the allocation for a student with a level six disability shall be the previous fiscal  
6           year's allocation for such child increased by the index factor;
- 7       (13) "Child count," is the number of students in need of special education or special  
8           education and related services according to criteria set forth in rules promulgated  
9           pursuant to §§ 13-37-1.1 and 13-37-46 submitted to the Department of Education  
10          in accordance with rules promulgated pursuant to § 13-37-1.1;
- 11       (14) "Fall enrollment," the number of kindergarten through twelfth grade students  
12          enrolled in all schools operated by the school district on the last Friday of September  
13          of the previous school year minus the number of students for whom the district  
14          receives tuition, except any nonresident student who is in the care and custody of  
15          a state agency and is attending a public school and any student for whom tuition is  
16          being paid pursuant to § 13-28-42.1, plus the number of students for whom the  
17          district pays tuition;
- 18       (15) "Nonpublic school," a sectarian organization or entity which is accredited by the  
19          secretary of education for the purpose of instructing children of compulsory school  
20          age. This definition excludes any school that receives a majority of its revenues  
21          from public funds;
- 22       (16) "Nonpublic fall enrollment," the number of children under age eighteen, who are  
23          approved for alternative instruction pursuant to § 13-27-2 on the last Friday of  
24          September of the previous school year plus:
- 25           (a) For nonpublic schools located within the boundaries of a public school district  
26               with a fall enrollment of six hundred or more on the last Friday of September  
27               of the previous school year, the number of kindergarten through twelfth  
28               grade students enrolled on the last Friday of September of the previous  
29               regular school year in all nonpublic schools located within the boundaries of  
30               the public school district;
- 31           (b) For nonpublic schools located within the boundaries of a public school district  
32               with a fall enrollment of less than six hundred on the last Friday of September  
33               of the previous school year, the number of resident kindergarten through  
34               twelfth grade students enrolled on the last Friday of September of the



- 1 previous school year in all nonpublic schools located within the State of South  
2 Dakota;
- 3 (17) "Special education fall enrollment," fall enrollment plus nonpublic fall enrollment;
- 4 (18) "Local need," an amount to be determined as follows:
- 5 (a) Multiply the special education fall enrollment by 0.1 and multiply the result  
6 by the allocation for a student with a level one disability;
- 7 (b) Multiply the number of students having a level two disability as reported on  
8 the child count for the previous school fiscal year by the allocation for a  
9 student with a level two disability;
- 10 (c) Multiply the number of students having a level three disability as reported on  
11 the child count for the previous school fiscal year by the allocation for a  
12 student with a level three disability;
- 13 (d) Multiply the number of students having a level four disability as reported on  
14 the child count for the previous school fiscal year by the allocation for a  
15 student with a level four disability;
- 16 (e) Multiply the number of students having a level five disability as reported on  
17 the child count for the previous school fiscal year by the allocation for a  
18 student with a level five disability;
- 19 (f) Multiply the number of students having a level six disability as reported on  
20 the child count for the previous school fiscal year by the allocation for a  
21 student with a level six disability;
- 22 (g) When calculating local need at the statewide level, include the amount set  
23 aside for extraordinary costs defined in § 13-37-40;
- 24 (h) When calculating local need at the statewide level, include the amount set  
25 aside for the South Dakota School for the Blind and Visually Impaired;
- 26 (i) Sum the results of (a) to (h), inclusive;
- 27 (19) "Effort factor," the school district's special education tax levy in dollars per thousand  
28 divided by ~~\$1.484~~ \$1.470. The maximum effort factor is 1.0.