



## 2022 South Dakota Legislature

# Senate Bill 59

### JOINT APPROPRIATIONS ENGROSSED

*Introduced by: The Senate 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.** For taxes payable in ~~2022~~ 2023 and each year thereafter, the levy for  
 6 the general fund of a school district shall be as follows:

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

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

1 maximum levies in this section. The school district may elect to tax at less than the  
2 maximum amounts set forth in this section.

3 **Section 2. That § 13-13-10.1 be AMENDED:**

4 **13-13-10.1.** The education funding terms and procedures referenced in this  
5 chapter are defined as follows:

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

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

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

14 (b) Subtract the number of students for whom the district receives tuition except  
15 for:

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

18 (ii) Students who are being provided an education pursuant to § 13-28-  
19 11;

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

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

24 (3) "Target teacher ratio factor," is:

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

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

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

30 (2) Adding 10.50 to the product of subsection (b)(1);

31 (c) For districts with a fall enrollment of six hundred or greater, the target teacher  
32 ratio factor is 15.

1 The fall enrollment used for the determination of the target teacher ratio for a school  
2 district may not include any students residing in a residential treatment facility  
3 when the education program is operated by the school district;

4 (4) "English learner (EL) adjustment," is calculated by multiplying 0.25 times the  
5 number of kindergarten through twelfth grade students who, in the prior school  
6 year, scored below level four on the state-administered language proficiency  
7 assessment as required in the state's consolidated state application pursuant to §  
8 1111(b)(2)(G) of the Every Student Succeeds Act of 2015. For the 2021-2022  
9 calculation only, the EL adjustment is calculated by multiplying 0.25 times the  
10 number of kindergarten through twelfth grade students who scored below level  
11 four on the state-administered language proficiency assessment in school year  
12 2019-2020 or 2020-2021, whichever is greater;

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

17 (6) "Target teacher salary," for the school fiscal year beginning July 1, ~~2021~~ 2022 is  
18 ~~\$52,600.29~~ \$55,756.31. Each school fiscal year thereafter, the target teacher  
19 salary is the previous fiscal year's target teacher salary increased by the index  
20 factor;

21 (7) "Target teacher benefits," is the target teacher salary multiplied by twenty-nine  
22 percent;

23 (8) "Target teacher compensation," is the sum of the target teacher salary and the  
24 target teacher benefits;

25 (9) "Overhead rate," is ~~thirty-seven~~ thirty-eight and ~~thirty~~ seventy-eight hundredths  
26 percent.

27 Beginning in school fiscal year 2018, the overhead rate shall be adjusted to take  
28 into account the sum of the amounts that districts exceed the other revenue base  
29 amount;

30 (10) "Local need," is calculated as follows:

31 (a) Divide the fall enrollment by the target teacher ratio factor;

32 (b) If applicable, divide English Learner (EL) adjustment pursuant to subdivision  
33 (4) by the target teacher ratio factor;

34 (c) Add the results of subsections (a) and (b);

35 (d) Multiply the result of subsection (c) by the target teacher compensation;

- 1 (e) Multiply the product of subsection (d) by the overhead rate;
- 2 (f) Add the products of subsections (d) and (e);
- 3 (g) When calculating local need at the statewide level, include the amounts set  
4 aside for costs related to technology in schools and statewide student  
5 assessments; and
- 6 (h) When calculating local need at the statewide level, include the amounts set  
7 aside for sparse school district benefits, calculated pursuant to §§ 13-13-  
8 78 and 13-13-79;
- 9 (11) "Alternative per student need," is calculated as follows:
- 10 (a) Add the total need for each school district for school fiscal year 2016,  
11 including the small school adjustment and the English learner adjustment,  
12 to the lesser of the amount of funds apportioned to each school district in  
13 the year preceding the most recently completed school fiscal year or school  
14 fiscal year 2015 pursuant to §§ 13-13-4, 23A-27-25, 10-33-24, 10-36-10,  
15 11-7-73, 10-35-21, and 10-43-77; and
- 16 (b) Divide the result of (a) by the September 2015 fall enrollment, excluding any  
17 adjustments based on prior year student counts;
- 18 (12) "Alternative local need," is the alternative per student need multiplied by the fall  
19 enrollment, excluding any adjustments based on prior year student counts;
- 20 (13) "Local effort," the amount of ad valorem taxes generated in a school fiscal year by  
21 applying the levies established pursuant to § 10-12-42. Beginning on July 1, 2017,  
22 local effort will include the amount of funds apportioned to each school district in  
23 the year preceding the most recently completed school fiscal year pursuant to  
24 §§ 10-33-24, 10-35-21 as provided by subdivision (15), 10-36-10, 10-43-77, 11-  
25 7-73, 13-13-4, and 23A-27-25 and that exceeds the other revenue base amount;
- 26 (14) "Other revenue base amount," for school districts not utilizing the alternative local  
27 need calculation is the amount of funds apportioned to each school district pursuant  
28 to §§ 10-33-24, 10-35-21 as provided by subdivision (15), 10-36-10, 10-43-77,  
29 11-7-73, 13-13-4, and 23A-27-25, calculated as follows:
- 30 (a) Beginning on July 1, 2017, equals the greatest of the amounts of the funds  
31 apportioned to each school district pursuant to §§ 10-33-24, 10-35-21 as  
32 provided by subdivision (15), 10-36-10, 10-43-77, 11-7-73, 13-13-4, and  
33 23A-27-25 for school fiscal years 2013, 2014, and 2015;
- 34 (b) Beginning on July 1, 2018, multiply eighty percent times subsection (a);
- 35 (c) Beginning on July 1, 2019, multiply sixty percent times subsection (a);

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

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

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

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

18 (15) "Wind energy tax revenue," any wind energy tax revenue apportioned to school  
19 districts pursuant to § 10-35-21 from a wind farm producing power for the first  
20 time before July 1, 2016, shall be considered local effort pursuant to subdivision  
21 (13) and other revenue base amount pursuant to subdivision (14). However, any  
22 wind energy tax revenue apportioned to a school district from a wind farm  
23 producing power for the first time after June 30, 2016, one hundred percent shall  
24 be retained by the school district to which the tax revenue is apportioned for the  
25 first five years of producing power, eighty percent for the sixth year, sixty percent  
26 for the seventh year, forty percent for the eighth year, twenty percent for the ninth  
27 year, and zero percent thereafter. If a wind farm begins producing power for the  
28 first time between October first and December thirty-first in a calendar year, any  
29 revenues generated for that time period must be retained by the school district  
30 and that time period may not be counted against the first five-year period;

31 (16) "Per student equivalent," for funding calculations that are determined on a per  
32 student basis, the per student equivalent is calculated as follows:

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

1 (17) "Monthly cash balance," the total amount of money for each month in the school  
2 district's general fund, calculated by adding all deposits made during the month to  
3 the beginning cash balance and deducting all disbursements or payments made  
4 during the month;

5 (18) "General fund base percentage," is determined as follows:

6 (a) Forty percent for a school district with a fall enrollment as defined in  
7 subdivision (2) of two hundred or less;

8 (b) Thirty percent for a school district with fall enrollment as defined in  
9 subdivision (2) of more than two hundred but less than six hundred; and

10 (c) Twenty-five percent for a school district with fall enrollment as defined in  
11 subdivision (2) greater than or equal to six hundred.

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

16 (19) "Allowable general fund cash balance," the general fund base percentage multiplied  
17 by the district's general fund expenditures in the previous school year.

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

19 **13-37-16.** For taxes payable in ~~2022~~ 2023, and each year thereafter, the school  
20 board shall levy no more than one dollar and ~~sixty-seven~~ fifty-nine and nine-tenths cents  
21 per 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 §§ 13-37-8.4 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.** Terms used in chapter 13-37 mean:

- 3 (1) "Level one disability," a mild disability;
- 4 (2) "Level two disability," cognitive disability or emotional disorder;
- 5 (3) "Level three disability," hearing impairment, deafness, visual impairment, deaf-
- 6 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
- 11 urban wage earners and clerical workers as computed by the Bureau of Labor
- 12 Statistics of the United States Department of Labor for the year before the year
- 13 immediately preceding the year of adjustment or three percent, whichever is less;
- 14 (7) "Local effort," shall be calculated for taxes payable in ~~2022~~ 2023 and thereafter
- 15 using a special education levy of one dollar and ~~forty seven~~ thirty-nine and nine-
- 16 tenths cents per one thousand dollars of valuation;
- 17 (8) "Allocation for a student with a level one disability," for the school fiscal year
- 18 beginning July 1, ~~2021~~ 2022, is ~~\$6,299.65~~ \$6,532.00. For each school year
- 19 thereafter, the allocation for a student with a level one disability shall be the
- 20 previous fiscal year's allocation for such child increased by the index factor;
- 21 (9) "Allocation for a student with a level two disability," for the school fiscal year
- 22 beginning July 1, ~~2021~~ 2022, is ~~\$15,006.72~~ \$15,411.00. For each school year
- 23 thereafter, the allocation for a student with a level two disability shall be the
- 24 previous fiscal year's allocation for such child increased by the index factor;
- 25 (10) "Allocation for a student with a level three disability," for the school fiscal year
- 26 beginning July 1, ~~2021~~ 2022, is ~~\$19,654.66~~ \$19,682.00. For each school year
- 27 thereafter, the allocation for a student with a level three disability shall be the
- 28 previous fiscal year's allocation for such child increased by the index factor;
- 29 (11) "Allocation for a student with a level four disability," for the school fiscal year
- 30 beginning July 1, ~~2021~~ 2022, is ~~\$15,774.72~~ \$15,981.00. For each school year
- 31 thereafter, the allocation for a student with a level four disability shall be the
- 32 previous fiscal year's allocation for such child increased by the index factor;
- 33 (12) "Allocation for a student with a level five disability," for the school fiscal year
- 34 beginning July 1, ~~2021~~ 2022, is ~~\$33,124.35~~ \$34,293.00. 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, ~~2021~~ 2022, is ~~\$8,459.26~~ \$9,066.00. For each school year  
5 thereafter, the allocation for a student with a level six disability shall be the  
6 previous fiscal 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  
13 September of the previous school year minus the number of students for whom  
14 the district receives tuition, except any nonresident student who is in the care and  
15 custody of a state agency and is attending a public school and any student for  
16 whom tuition is being paid pursuant to § 13-28-42.1, plus the number of students  
17 for whom the 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  
33 September of the previous school year, the number of resident kindergarten  
34 through twelfth grade students enrolled on the last Friday of September of



1 the previous school year in all nonpublic schools located within the State of  
2 South 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~~ 0.1072 and multiply the  
6 result 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 ~~\$1.470~~ \$1.399. The maximum effort factor is 1.0.