

2023 South Dakota Legislature

Senate Bill 24**AMENDMENT 24B
FOR THE INTRODUCED BILL**

1 **An Act to** revise property tax levies for school districts and to revise the state aid to general
2 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 ~~2023~~ 2024 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~~ five six dollars and ~~thirty and eight tenths~~
8 ninety-eight and nine tenths eleven and three tenths cents per thousand dollars
9 of taxable valuation subject to the limitations on agricultural property as provided
10 in subdivision (2) of this section and owner-occupied property as provided in
11 subdivision (3) of this section;
- 12 (2) The maximum tax levy on agricultural property for the school district shall be one
13 dollar and ~~thirty-six and two tenths~~ twenty-nine and three tenths thirty-two cents
14 per thousand dollars of taxable valuation. If the district's levies are less than the
15 maximum levies as stated in this section, the levies shall maintain the same
16 proportion to each other as represented in the mathematical relationship at the
17 maximum levies; and
- 18 (3) The maximum tax levy for an owner-occupied single-family dwelling as defined in
19 § 10-13-40 for the school district shall be three ~~is two~~ dollars and ~~four and eight~~
20 tenths eighty-nine and four tenths ninety-five and four tenths cents per thousand
21 dollars of taxable valuation. If the district's levies are less than the maximum levies
22 as stated in this section, the levies shall maintain the same proportion to each
23 other as represented in the mathematical relationship at the maximum levies.

24 All levies in this section shall be imposed on valuations where the median level of
25 assessment represents eighty-five percent of market value as determined by the
26 Department of Revenue. These valuations shall be used for all school funding purposes. If

1 the district has imposed an excess levy pursuant to § 10-12-43, the levies shall maintain
2 the same proportion to each other as represented in the mathematical relationship at the
3 maximum levies in this section. The school district may elect to tax at less than the
4 maximum amounts set forth in this section.

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

6 **13-13-10.1.** The education funding terms and procedures referenced in this
7 chapter are defined as follows:

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

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

13 (a) Determine the number of kindergarten through twelfth grade students
14 enrolled in all schools operated by the school district on the last Friday of
15 September of the current school year, and add to that number the product
16 of 0.10 multiplied by the number of children who participated in the prior
17 school year in high school interscholastic activities sanctioned or sponsored
18 by the South Dakota High School Activities Association, as permitted by
19 § 13-36-7, while receiving alternative instruction pursuant to § 13-27-3;

20 (b) Subtract the number of students for whom the district receives tuition
21 except for:

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

24 (ii) Students who are being provided an education pursuant to § 13-28-
25 11;

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

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

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

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

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

- 1 (i) Multiplying the fall enrollment by .00750;
- 2 (ii) Adding 10.50 to the product of subsection (b)(1);
- 3 (c) For districts with a fall enrollment of six hundred or greater, the target
- 4 teacher ratio factor is 15.

5 The fall enrollment used for the determination of the target teacher ratio for a school

6 district may not include any students residing in a residential treatment facility

7 when the education program is operated by the school district;

8 (4) "English learner (EL) adjustment," is calculated by multiplying 0.25 times the

9 number of kindergarten through twelfth grade students who, in the prior school

10 year, scored below level four on the state-administered language proficiency

11 assessment as required in the state's consolidated state application pursuant to

12 § 1111(b)(2)(G) of the Every Student Succeeds Act of 2015. For the 2021-2022

13 calculation only, the EL adjustment is calculated by multiplying 0.25 times the

14 number of kindergarten through twelfth grade students who scored below level

15 four on the state-administered language proficiency assessment in school year

16 2019-2020 or 2020-2021, whichever is greater;

17 (5) "Index factor," is the annual percentage change in the consumer price index for

18 urban wage earners and clerical workers as computed by the Bureau of Labor

19 Statistics of the United States Department of Labor for the year before the year

20 immediately preceding the year of adjustment or three percent, whichever is less;

21 (6) "Target teacher salary," for the school fiscal year beginning July 1, ~~2022~~ 2023, is

22 ~~\$55,756.31~~ ~~\$58,544.13~~ \$59,659.25. Each school fiscal year thereafter, the target

23 teacher salary is the previous fiscal year's target teacher salary increased by the

24 index factor;

25 (7) "Target teacher benefits," is the target teacher salary multiplied by twenty-nine

26 percent;

27 (8) "Target teacher compensation," is the sum of the target teacher salary and the

28 target teacher benefits;

29 (9) "Overhead rate," is thirty-eight and seventy-eight hundredths percent.

30 Beginning in school fiscal year 2018, the overhead rate shall be adjusted to take into

31 account the sum of the amounts that districts exceed the other revenue base

32 amount;

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

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

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

1 provided by subdivision (15), 10-36-10, 10-43-77, 11-7-73, 13-13-4, and
2 23A-27-25 for school fiscal years 2013, 2014, and 2015;

3 (b) Beginning on July 1, 2018, multiply eighty percent times subsection (a);

4 (c) Beginning on July 1, 2019, multiply sixty percent times subsection (a);

5 (d) Beginning on July 1, 2020, multiply forty percent times subsection (a);

6 (e) Beginning on July 1, 2021, multiply twenty percent times subsection (a);
7 and

8 (f) Beginning on July 1, 2022, is zero;

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

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

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

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

- 1 (16) "Per student equivalent," for funding calculations that are determined on a per
 2 student basis, the per student equivalent is calculated as follows:
 3 (a) Multiply the target teacher compensation times the sum of one plus the
 4 overhead rate; and
 5 (b) Divide subsection (a) by 15;
- 6 (17) "Monthly cash balance," the total amount of money for each month in the school
 7 district's general fund, calculated by adding all deposits made during the month to
 8 the beginning cash balance and deducting all disbursements or payments made
 9 during the month;
- 10 (18) "General fund base percentage," is determined as follows:
 11 (a) Forty percent for a school district with a fall enrollment as defined in
 12 subdivision (2) of two hundred or less;
 13 (b) Thirty percent for a school district with fall enrollment as defined in
 14 subdivision (2) of more than two hundred but less than six hundred; and
 15 (c) Twenty-five percent for a school district with fall enrollment as defined in
 16 subdivision (2) greater than or equal to six hundred.
- 17 When determining the general fund base percentage, the secretary of the
 18 Department of Education shall use the lesser of the school district's fall enrollment
 19 as defined in subdivision (2) for the current school year or the school district's fall
 20 enrollment from the previous two years; and
- 21 (19) "Allowable general fund cash balance," the general fund base percentage multiplied
 22 by the district's general fund expenditures in the previous school year.

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

24 **13-37-16.** For taxes payable in ~~2023~~ 2024, and each year thereafter, the school
 25 board shall levy no more than one dollar and ~~fifty-nine and nine-tenths~~ fifty-five and three-
 26 tenths fifty-seven and four-tenths cents per thousand dollars of taxable valuation, as a
 27 special levy in addition to all other levies authorized by law for the amount so determined
 28 to be necessary, and the levy shall be spread against all of the taxable property of the
 29 district. The proceeds derived from the levy shall constitute a school district special
 30 education fund of the district for the payment of costs for the special education of all
 31 children in need of special education or special education and related services who reside
 32 within the district pursuant to the provisions of §§ 13-37-8.4 to 13-37-8.10, inclusive. The
 33 levy in this section shall be based on valuations such that the median level of assessment
 34 represents eighty-five percent of market value as determined by the Department of

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

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

7 **13-37-35.1.** Terms used in chapter 13-37 mean:

- 8 (1) "Level one disability," a mild disability;
- 9 (2) "Level two disability," cognitive disability or emotional disorder;
- 10 (3) "Level three disability," hearing impairment, deafness, visual impairment, deaf-
 11 blindness, orthopedic impairment, or traumatic brain injury;
- 12 (4) "Level four disability," autism;
- 13 (5) "Level five disability," multiple disabilities;
- 14 (5A) "Level six disability," prolonged assistance;
- 15 (6) "Index factor," is the annual percentage change in the consumer price index for
 16 urban wage earners and clerical workers as computed by the Bureau of Labor
 17 Statistics of the United States Department of Labor for the year before the year
 18 immediately preceding the year of adjustment or three percent, whichever is less;
- 19 (7) "Local effort," shall be calculated for taxes payable in ~~2023~~ 2024 and thereafter
 20 using a special education levy of one dollar and ~~thirty-nine and nine-tenths~~ thirty-
 21 five and three-tenths ~~thirty-seven and four-tenths~~ cents per one thousand dollars
 22 of valuation;
- 23 (8) "Allocation for a student with a level one disability," for the school fiscal year
 24 beginning July 1, ~~2022~~ 2023, is ~~\$6,532.00~~ ~~\$6,858.60~~ \$6,989.24. For each school
 25 year thereafter, the allocation for a student with a level one disability shall be the
 26 previous fiscal year's allocation for such child increased by the index factor;
- 27 (9) "Allocation for a student with a level two disability," for the school fiscal year
 28 beginning July 1, ~~2022~~ 2023, is ~~\$15,411.00~~ ~~\$16,181.55~~ \$16,489.77. For each
 29 school year thereafter, the allocation for a student with a level two disability shall
 30 be the previous fiscal year's allocation for such child increased by the index factor;
- 31 (10) "Allocation for a student with a level three disability," for the school fiscal year
 32 beginning July 1, ~~2022~~ 2023, is ~~\$19,682.00~~ ~~\$20,666.10~~ \$21,059.74. For each
 33 school year thereafter, the allocation for a student with a level three disability shall
 34 be the previous fiscal year's allocation for such child increased by the index factor;

- 1 (11) "Allocation for a student with a level four disability," for the school fiscal year
2 beginning July 1, 2022_2023, is ~~\$15,981.00~~ \$16,780.05 \$17,099.67. For each
3 school year thereafter, the allocation for a student with a level four disability shall
4 be the previous fiscal year's allocation for such child increased by the index factor;
- 5 (12) "Allocation for a student with a level five disability," for the school fiscal year
6 beginning July 1, 2022_2023, is ~~\$34,293.00~~ \$36,007.65 \$36,693.51. For each
7 school year thereafter, the allocation for a student with a level five disability shall
8 be the previous fiscal year's allocation for such child increased by the index factor;
- 9 (12A) "Allocation for a student with a level six disability," for the school fiscal year
10 beginning July 1, 2022_2023, is ~~\$9,066.00~~ \$9,519.30 \$9,700.62. For each school
11 year thereafter, the allocation for a student with a level six disability shall be the
12 previous fiscal year's allocation for such child increased by the index factor;
- 13 (13) "Child count," is the number of students in need of special education or special
14 education and related services according to criteria set forth in rules promulgated
15 pursuant to §§ 13-37-1.1 and 13-37-46 submitted to the Department of Education
16 in accordance with rules promulgated pursuant to § 13-37-1.1;
- 17 (14) "Fall enrollment," the number of kindergarten through twelfth grade students
18 enrolled in all schools operated by the school district on the last Friday of
19 September of the previous school year minus the number of students for whom
20 the district receives tuition, except any nonresident student who is in the care and
21 custody of a state agency and is attending a public school and any student for
22 whom tuition is being paid pursuant to § 13-28-42.1, plus the number of students
23 for whom the district pays tuition;
- 24 (15) "Nonpublic school," a sectarian organization or entity which is accredited by the
25 secretary of education for the purpose of instructing children of compulsory school
26 age. This definition excludes any school that receives a majority of its revenues
27 from public funds;
- 28 (16) "Nonpublic fall enrollment," the number of children under age eighteen, who are
29 approved for alternative instruction pursuant to § 13-27-2 on the last Friday of
30 September of the previous school year plus:
- 31 (a) For nonpublic schools located within the boundaries of a public school district
32 with a fall enrollment of six hundred or more on the last Friday of September
33 of the previous school year, the number of kindergarten through twelfth
34 grade students enrolled on the last Friday of September of the previous

- 1 regular school year in all nonpublic schools located within the boundaries of
2 the public school district;
- 3 (b) For nonpublic schools located within the boundaries of a public school district
4 with a fall enrollment of less than six hundred on the last Friday of
5 September of the previous school year, the number of resident kindergarten
6 through twelfth grade students enrolled on the last Friday of September of
7 the previous school year in all nonpublic schools located within the State of
8 South Dakota;
- 9 (17) "Special education fall enrollment," fall enrollment plus nonpublic fall enrollment;
- 10 (18) "Local need," an amount to be determined as follows:
- 11 (a) Multiply the special education fall enrollment by 0.1072 and multiply the
12 result by the allocation for a student with a level one disability;
- 13 (b) Multiply the number of students having a level two disability as reported on
14 the child count for the previous school fiscal year by the allocation for a
15 student with a level two disability;
- 16 (c) Multiply the number of students having a level three disability as reported on
17 the child count for the previous school fiscal year by the allocation for a
18 student with a level three disability;
- 19 (d) Multiply the number of students having a level four disability as reported on
20 the child count for the previous school fiscal year by the allocation for a
21 student with a level four disability;
- 22 (e) Multiply the number of students having a level five disability as reported on
23 the child count for the previous school fiscal year by the allocation for a
24 student with a level five disability;
- 25 (f) Multiply the number of students having a level six disability as reported on
26 the child count for the previous school fiscal year by the allocation for a
27 student with a level six disability;
- 28 (g) When calculating local need at the statewide level, include the amount set
29 aside for extraordinary costs defined in § 13-37-40;
- 30 (h) When calculating local need at the statewide level, include the amount set
31 aside for the South Dakota School for the Blind and Visually Impaired;
- 32 (i) Sum the results of (a) to (h), inclusive;
- 33 (19) "Effort factor," the school district's special education tax levy in dollars per thousand
34 divided by ~~\$1.399~~ \$1.353 \$1.374. The maximum effort factor is 1.0.