

2026 South Dakota Legislature

Senate Bill 99**AMENDMENT 99A
FOR THE INTRODUCED BILL**

1 **An Act to create the property tax local effort replacement fund, to reduce certain**
2 **property taxes, to reduce the sales and use tax rates on food, and to increase**
3 **the rates for certain gross receipts taxes and use taxes.**

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

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

6 **10-12-42.** For taxes payable in ~~2026~~ 2027, and each year thereafter, the
7 maximum levy for the general fund of a school district is ~~as follows:~~

8 ~~(1) The maximum tax levy is five dollars and twenty one and one tenth cents per~~
9 ~~thousand dollars of taxable valuation, subject to the limitations on agricultural property~~
10 ~~as provided 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 is one~~
13 ~~dollar and twelve and five tenths cents per thousand dollars of taxable valuation. If the~~
14 ~~district's levies are less than the maximum levies as stated in this section, the levies must~~
15 ~~maintain the same proportion to each other as represented in the mathematical~~
16 ~~relationship at the maximum levies; and~~

17 ~~(3) The maximum tax levy for an owner occupied single family dwelling pursuant~~
18 ~~to § 10-13-40 for the school district is two dollars and fifty one and eight tenths cents per~~
19 ~~thousand dollars of taxable valuation. If the district's levies are less than the maximum~~
20 ~~levies as stated in this section, the levies must maintain the same proportion to each other~~
21 ~~as represented in the mathematical relationship at the maximum levies zero dollars and~~
22 ~~zero cents per thousand dollars of taxable valuation.~~

23 All levies in this section must 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 must be used for all school funding purposes.
26 If the district has imposed an excess levy pursuant to § 10-12-43, the levies must

maintain the same proportion to each other as represented in the mathematical relationship at the maximum levies ~~in this section. The school district may elect to tax at less than the maximum amounts set forth in this section~~ imposed pursuant to this section for taxes payable in 2026.

Section 2. That § 10-45-1 be AMENDED:

10-45-1. Terms used in this chapter mean:

- (1) "Agricultural purposes," the producing, raising, growing, or harvesting of food or fiber upon agricultural land, including dairy products, livestock, and crops. The services of custom harvesters, chemical applicators, fertilizer spreaders, hay grinders, and cultivators are considered agricultural purposes. The harvesting of timber on land within the state is considered an agricultural purpose;
- (2) "Business," any activity engaged in by any person or caused to be engaged in by such person with the object of gain, benefit, or advantage, either direct or indirect;
- (3) "Candy," any preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts or other ingredients or flavorings in the form of bars, drops, or pieces. The term, candy, does not include any preparation containing flour and does not require refrigeration;
- (4) "Delivery charges," charges by the retailer for preparation and delivery to a location designated by the purchaser of tangible personal property, any product transferred electronically, or services including transportation, shipping, postage, handling, crating, and packing. The term does not include postage for direct mail;
- (5) "Food" and "food ingredient," any substance, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that is sold for ingestion or chewing by humans and is consumed for its taste or nutritional value. ~~The term, food, does~~ These terms do not include alcoholic beverages, tobacco, or prepared food:
 - (a) Alcoholic beverages, as defined in § 35-1-1;
 - (b) Cannabis or cannabis products, as defined in § 34-20G-1;
 - (c) Cigarettes, as defined in § 10-50B-4;
 - (d) Prepared food; or
 - (e) Tobacco products, as defined in § 10-50-1;
- (6) Repealed by SL 2007, ch 56, § 1.
- (7) "Person," any individual, firm, copartnership, joint adventure, association, limited liability company, corporation, municipal corporation, estate, trust, business trust,

- 1 receiver, the State of South Dakota and its political subdivisions, or any group or
2 combination acting as a unit;
- 3 (8) "Prepared food," any ~~food~~;
- 4 (a) Food sold in a heated state or heated by the seller; ~~two~~
- 5 (b) Two or more food ingredients mixed or combined by the seller for sale as a
6 single item; or ~~food~~
- 7 (c) Food sold with eating utensils provided by the seller, including plates,
8 knives, forks, spoons, glasses, cups, napkins, or straws. ~~A, but a~~ plate does
9 not include a container or packaging used to transport the food.
- 10 Prepared food does not include food that is only cut, repackaged, or pasteurized
11 by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal
12 foods requiring cooking by the consumer as recommended by the Food and Drug
13 Administration in chapter 3, part 401.11 of its Food Code as of January 1, 2003,
14 so as to prevent food borne illnesses;
- 15 (8A) "Product transferred electronically," any product obtained by the purchaser by
16 means other than tangible storage media. A product transferred electronically does
17 not include any intangible such as a patent, stock, bond, goodwill, trademark,
18 franchise, or copyright.
- 19 (9) "Relief agency," the state, and county, municipality or district thereof, or any
20 agency engaged in actual relief work;
- 21 (10) "Retail sale" or "sale at retail," any sale, lease, or rental for any purpose other than
22 for resale, sublease, or subrent;
- 23 (11) "Retailer," any person engaged in the business of selling tangible goods, wares, or
24 merchandise at retail, or the furnishing of gas, electricity, water, and
25 communication service, and tickets or admissions to places of amusement and
26 athletic events as provided in this chapter, and the sale at retail of products
27 transferred electronically. The term also includes any person subject to the tax
28 imposed by §§ 10-45-4 and 10-45-5. The isolated or occasional sale of tangible
29 personal property or any product transferred electronically at retail by a person
30 who does not hold himself or herself out as engaging in the business of selling such
31 tangible personal property or products transferred electronically at retail does not
32 constitute such person a retailer;
- 33 (12) "Sale," any transfer, exchange, or barter, conditional or otherwise, in any manner
34 or by any means whatsoever, for a consideration;

(13) "Soft drinks," any nonalcoholic beverages that contain natural or artificial sweeteners. The term, soft drinks, does not include any beverage that contains milk or milk products, soy, rice or similar milk substitutes, or greater than fifty percent of vegetable or fruit juice by volume;

(14) "Tangible personal property," personal property that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses. The term includes electricity, water, gas, steam, and prewritten computer software.

Section 3. That § 10-45-2 be AMENDED:

10-45-2. There is hereby imposed a tax upon the privilege of engaging in business as a retailer, ~~a tax of four and two tenths at the rate of six and two tenths one-half~~ percent upon the gross receipts of all sales of tangible personal property consisting of goods, wares, or merchandise, except as otherwise provided in this chapter, sold at retail in the state to consumers or users.

Section 4. That § 10-45-5 be AMENDED:

10-45-5. There is imposed a tax, at the rate of ~~four and two tenths percent set forth in § 10-45-2,~~ upon the gross receipts of any person from engaging or continuing in any of the following businesses or services in this state: ~~abstracters~~

- (1) Abstracters;
- (2) accountants ~~Accountants~~;
- (3) ancillary ~~Ancillary~~ services;
- (4) architects ~~Architects~~;
- (5) barbers ~~Barbers~~;
- (6) beauty ~~Beauty~~ shops;
- (7) bill ~~Bill~~ collection services;
- (8) blacksmith ~~Blacksmith~~ shops;
- (9) car ~~Car~~ washing;
- (10) dry ~~Dry~~ cleaning;
- (11) dyeing ~~Dyeing~~;
- (12) exterminators ~~Exterminators~~;
- (13) garage ~~Garage~~ and service stations;
- (14) garment ~~Garment~~ alteration;
- (15) cleaning ~~Cleaning~~ and pressing;

- (16) ~~janitorial~~Janitorial services and supplies;
- (17) ~~specialty~~Specialty cleaners;
- (18) ~~laundry~~Laundry;
- (19) ~~linen~~Linen and towel supply;
- (20) ~~membership~~Membership or entrance fees for the use of a facility or for the right to purchase tangible personal property, any product transferred electronically, or services;
- (21) ~~photography~~Photography;
- (22) ~~photo~~Photo developing and enlarging;
- (23) ~~tire~~Tire recapping;
- (24) ~~welding~~Welding and all repair services, except repair services for farm machinery, attachment units, and irrigation equipment used exclusively for agricultural purposes;
- (25) ~~cable~~Cable television; and
- (26) ~~rentals~~Rentals of tangible personal property, except leases of tangible personal property between one telephone company and another telephone company, motor vehicles as defined pursuant to § 32-5-1 leased under a single contract for more than twenty-eight days, and mobile homes. ~~However, the~~
- The specific enumeration of businesses and professions made in this section does not, in any way, limit the scope and effect of the provisions of § 10-45-4.

Section 5. That § 10-45-5.3 be AMENDED:

10-45-5.3. There is imposed, at the rate of ~~four and two-tenths percent~~ set forth in § 10-45-2, an excise tax on the gross receipts of any person engaging in oil and gas field services ~~(, group no. 138),~~ as enumerated in the Standard Industrial Classification Manual, 1987, as prepared by the Statistical Policy Division of the Office of Management and Budget, Office of the President.

Section 6. That § 10-45-6 be AMENDED:

10-45-6. There is ~~hereby~~ imposed a tax of ~~four and two-tenths percent~~, at the rate set forth in § 10-45-2, upon the gross receipts from sales, furnishing, or service of gas, electricity, and water, including the gross receipts from ~~such the~~ sales by any municipal corporation furnishing gas, and electricity, to the public in its proprietary capacity, except as otherwise provided in this chapter, when sold at retail in ~~the State of South Dakota~~ this state to consumers or users.

Section 7. That § 10-45-6.1 be AMENDED:

10-45-6.1. Except as provided in § 10-45-6.2, there is ~~hereby~~ imposed a tax of ~~four and two-tenths percent~~, at the rate set forth in § 10-45-2, upon the gross receipts from providing any intrastate, interstate, or international telecommunications service that originates or terminates in this state and that is billed or charged to a service address in this state, or that both originates and terminates in this state. However, the tax imposed by this section does not apply to:

- (1) Any eight hundred or eight hundred-type service, unless the service both originates and terminates in this state;
- (2) Any sale of a telecommunication service to a provider of telecommunication services, including access service, for use in providing any telecommunication service; or
- (3) Any sale of interstate telecommunication service provided to a call center that has been certified by the secretary of revenue to meet the criterion established in § 10-45-6.3 and the call center has provided to the telecommunications service provider an exemption certificate issued by the secretary indicating that it meets the criterion.

If a call center uses an exemption certificate to purchase services not meeting the criterion established in § 10-45-6.3, the call center is liable for the applicable tax, penalty, and interest.

Section 8. That § 10-45-6.2 be AMENDED:

10-45-6.2. There is ~~hereby~~ imposed a tax of ~~four and two-tenths percent~~, at the rate set forth in § 10-45-2, upon the gross receipts of mobile telecommunications services, as defined in 4 U.S.C. § 124(7) ~~as of (January 1, 2002)~~, that originate and terminate in the same state and are billed to a customer with a place of primary use in this state or are deemed to have originated or been received in this state and to be billed or charged to a service address in this state if the customer's place of primary use is located in this state regardless of where the service actually originates or terminates. Notwithstanding any other provision of this chapter and for purposes of the tax imposed by this section, the tax imposed upon mobile telecommunication services must be administered in accordance with 4 U.S.C. §§ 116 ~~to 126~~, as in effect on, inclusive, (July 28, 2000).

Section 9. That § 10-45-8 be AMENDED:

1 **10-45-8.** Except as otherwise provided in this chapter, there is imposed a tax ~~of~~
2 ~~four and two tenths percent, at the rate set forth in § 10-45-2,~~ upon the gross receipts
3 from all sales of tickets or admissions to:

- 4 (1) Places of amusement;
- 5 (2) Athletic contests; or
- 6 (3) Events.

7 **Section 10. That § 10-45-71 be AMENDED:**

8 **10-45-71.** There is imposed a tax ~~of four and two tenths percent on,~~ at the rate
9 set forth in § 10-45-2, upon the gross receipts from the transportation of passengers. The
10 tax imposed by this section applies to any transportation of passengers if the passenger
11 boards and exits the mode of transportation within this state.

12 **Section 11. That a NEW SECTION be added to chapter 10-45:**

13 The rate imposed by this chapter upon the gross receipts of all sales of food and
14 food ingredients, as defined by § 10-45-1, is zero percent.

15 **Section 12. That § 10-46-1 be AMENDED:**

16 **10-46-1.** Terms, as used in this chapter mean:

- 17 (1) "Business," any activity engaged in by any person or caused to be engaged in by
18 such person with the object of gain, benefit or advantage either direct or indirect;
- 19 (2) "Candy," any preparation of sugar, honey, or other natural or artificial sweeteners
20 in combination with chocolate, fruits, nuts or other ingredients or flavorings in the
21 form of bars, drops, or pieces. The term, candy, does not include any preparation
22 containing flour and does not require refrigeration;
- 23 (3) "Delivery charges," charges by the retailer for preparation and delivery to a location
24 designated by the purchaser of tangible personal property, any product transferred
25 electronically, or services including transportation, shipping, postage, handling,
26 crating, and packing. The term does not include postage for direct mail;
- 27 (4) "Fair market value," the price at which a willing seller and willing buyer will trade.
28 Fair market value shall be determined at the time of purchase. If a public
29 corporation is supplying tangible personal property or any product transferred
30 electronically that will be used in the performance of a contract, fair market value

- 1 shall be determined pursuant to § 5-18B-7. This definition also applies to chapter
2 10-45;
- 3 (5) "Food" and "food ingredient," any substance, whether in liquid, concentrated, solid,
4 frozen, dried, or dehydrated form, that is sold for ingestion or chewing by humans
5 and is consumed for its taste or nutritional value. ~~The term, food, does~~ These terms
6 do not include alcoholic beverages, tobacco, or prepared food;
7 (a) Alcoholic beverages, as defined in § 35-1-1;
8 (b) Cannabis or cannabis products, as defined in § 43-20G-1;
9 (c) Cigarettes, as defined in § 10-50B-4;
10 (d) Prepared food; or
11 (e) Tobacco products, as defined in § 34-20G-1;
12 (6) "Included in the measure of tax," the tangible personal property, any product
13 transferred electronically, or the service was purchased from a retailer licensed
14 under chapter 10-45 and that retailer has included the tax in the amount received
15 from the sale;
- 16 (7) "In this state" or "in the state," within the exterior limits of the State of South
17 Dakota and includes all territory within such limits owned by or ceded to the United
18 States of America;
- 19 (8) "Prepared food," any food sold in a heated state or heated by the seller; two or
20 more food ingredients mixed or combined by the seller for sale as a single item; or
21 food sold with eating utensils provided by the seller, including plates, knives, forks,
22 spoons, glasses, cups, napkins, or straws. A plate does not include a container or
23 packaging used to transport the food.
24 Prepared food does not include food that is only cut, repackaged, or pasteurized
25 by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal
26 foods requiring cooking by the consumer as recommended by the Food and Drug
27 Administration in chapter 3, part 401.11 of its Food Code as of January 1, 2003,
28 so as to prevent food borne illnesses;
- 29 (8A) "Product transferred electronically," any product obtained by the purchaser by
30 means other than tangible storage media. A product transferred electronically does
31 not include any intangible such as a patent, stock, bond, goodwill, trademark,
32 franchise, or copyright.
- 33 (9) "Purchase," any transfer, exchange, or barter, conditional or otherwise, in any
34 manner or by any means whatsoever, for a consideration. A transaction, whereby

- 1 the possession of property is transferred but the seller retains the title as security
2 for the payment of the price, is a purchase;
- 3 (10) "Purchase price," shall have the same meaning as gross receipts defined in chapter
4 10-45;
- 5 (11) "Retailer," any person performing services in this state or engaged in the business
6 of selling tangible personal property or products transferred electronically for use,
7 storage or other consumption within the meaning of this chapter. However, if in
8 the opinion of the secretary of revenue, it is necessary for the efficient
9 administration of this chapter to regard any salesmen, representatives, truckers,
10 peddlers, or canvassers as agents of the dealers, distributors, supervisors,
11 employers, or persons under whom they operate or from whom they obtain the
12 tangible personal property or any product transferred electronically sold by them
13 irrespective of whether they are making sales on their own behalf or on behalf of
14 such dealers, distributors, supervisors, employers, or persons, the secretary of
15 revenue may so regard them and may regard the dealers, distributors, supervisors,
16 employers, or persons as retailers for purposes of this chapter;
- 17 (12) "Retailer maintaining a place of business in the state," any retailer having or
18 maintaining within this state, directly or by a subsidiary, an office, distribution
19 house, sales house, warehouse, or other place of business, or any agents operating
20 within the state under the authority of the retailer or its subsidiary, irrespective of
21 whether such place of business or agent is located here permanently or temporarily
22 or whether such retailer or subsidiary is admitted to do business within this state
23 pursuant to the laws of the State of South Dakota granting the rights of foreign
24 corporations to do business in this state;
- 25 (13) "Secretary," the secretary of the Department of Revenue or any duly authorized
26 and appointed assistant, deputies, or agents of the secretary charged with the
27 administration or enforcement of this chapter;
- 28 (14) "Soft drinks," any nonalcoholic beverages that contain natural or artificial
29 sweeteners. The term, soft drinks, does not include any beverage that contains
30 milk or milk products, soy, rice or similar milk substitutes, or greater than fifty
31 percent of vegetable or fruit juice by volume;
- 32 (15) "Storage," any keeping or retention in this state for use or other consumption in
33 the State of South Dakota for any purpose except sale in the regular course of
34 business;

(16) "Tangible personal property," personal property that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses if furnished or delivered to consumers or users within this state. The term includes electricity, water, gas, steam, and prewritten computer software;

(17) "Use," the exercise of right or power over tangible personal property or any product transferred electronically incidental to the ownership of that property, except that it does not include the sale of that property in the regular course of business. Use also includes the use of the types of services, the gross receipts from the sale of which are to be included in the measure of the tax imposed by chapter 10-45, and the delivery or causing delivery into this state of tangible personal property or any product transferred electronically intended to advertise any product or service or promote or facilitate any sale to South Dakota residents.

Section 13. That § 10-46-2.1 be AMENDED:

10-46-2.1. For the privilege of using services in ~~South Dakota~~ this state, except those types of services exempted by § 10-46-17.3, there is imposed on the person using the service an excise tax ~~equal to four and two tenths, at the rate of six and two tenths~~ one-half percent of the value of the services at the time they are rendered. ~~However, this~~ This tax may not be imposed on ~~any service~~:

(1) ~~Service rendered by a related corporation, as defined in subdivision 10-43-1(11), for use by a financial institution, as defined in subdivision 10-43-1(4); or on any service~~ § 10-43-1; or

(2) ~~Service rendered by a financial institution, as defined in subdivision 10-43-1(4) § 10-43-1, for use by a related corporation as defined in subdivision 10-43-1(11).~~

For the purposes of this section, ~~the term, "related corporation," includes a means~~ a corporation associated with another as its parent or subsidiary, or in a brother-sister relationship. The term includes a corporation, which together with the financial institution, is part of a controlled group of corporations, as defined in 26 U.S.C. § 1563 ~~as in effect on~~ (January 1, 1989), except that the eighty percent ownership requirements set forth in 26 U.S.C. ~~§ 563(a)(2)(A)~~ § 1563(a) for a brother-sister controlled group are reduced to fifty-one percent.

For the purpose of this chapter, services rendered by an employee for the use of the employer are not taxable.

Section 14. That § 10-46-2.2 be AMENDED:

1 **10-46-2.2.** An excise tax is imposed upon the privilege of the use of rented
2 tangible personal property and any product transferred electronically in this state, at the
3 ~~rate of four and two-tenths percent of~~ set forth in § 10-46-2.1, on the rental payments
4 upon the property.

5 **Section 15. That § 10-46-48 be AMENDED:**

6 **10-46-48.** ~~All revenue arising under the operation of~~ Except as otherwise
7 provided, revenue collected pursuant to this chapter shall immediately must be turned
8 over to the state treasurer and ~~by him credited to~~ deposited in the general fund.

9 The treasurer shall deposit in the local effort replacement fund, established in
10 section ~~25~~ 29 of this Act, ~~thirty two and three-tenths~~ thirty-five and four-tenths percent
11 of the taxes collected by the secretary of the Department of Revenue pursuant to this
12 chapter.

13 **Section 16. That § 10-46-58 be AMENDED:**

14 **10-46-58.** ~~There is imposed a tax of four and two-tenths percent on,~~ at the rate
15 set forth in § 10-46-2.1, upon the privilege of the use of any transportation of passengers.
16 The tax imposed by this section applies to any transportation of passengers if the
17 passenger boards and exits the mode of transportation within this state.

18 **Section 17. That § 10-46-69 be AMENDED:**

19 **10-46-69.** ~~There is hereby imposed a tax of four and two-tenths percent, at the~~
20 rate set forth in § 10-46-2.1, upon the privilege of the use of mobile telecommunications
21 services, as defined in 4 U.S.C. § 124(7) ~~as of (January 1, 2002), that originate and~~
22 terminate in the same state and are billed to a customer with a place of primary use in
23 this state. Notwithstanding any other provision of this chapter and for purposes of the tax
24 imposed by this section, the tax imposed upon mobile telecommunication services must
25 be administered in accordance with 4 U.S.C. §§ 116-126, ~~as in effect on (July 28, 2000).~~

26 **Section 18. That § 10-46-69.1 be AMENDED:**

27 **10-46-69.1.** Except as provided in § 10-46-69, there is ~~hereby~~ imposed a tax ~~of~~
28 ~~four and two-tenths percent, at the rate set forth in § 10-46-2.1,~~ upon the privilege of the
29 use of any intrastate, interstate, or international telecommunications service that
30 originates or terminates in this state and that is billed or charged to a service address in

1 this state, or that both originates and terminates in this state. ~~However, the~~ The tax
2 imposed by this section does not apply to:

- 3 (1) Any eight hundred or eight hundred type service unless the service both originates
4 and terminates in this state;
5 (2) Any sale of a telecommunication service to a provider of telecommunication
6 services, including access service, for use in providing any telecommunication
7 service; or
8 (3) Any sale of interstate telecommunication service provided to a call center that has
9 been certified by the secretary of revenue to meet the criterion established in § 10-
10 45-6.3 and the call center has provided to the telecommunications service provider
11 an exemption certificate issued by the secretary indicating that it meets the
12 criterion.

13 If a call center uses an exemption certificate to purchase services not meeting the
14 criterion established in § 10-45-6.3, the call center is liable for the applicable tax, penalty,
15 and interest.

16 **Section 19. That § 10-46-69.2 be AMENDED:**

17 **10-46-69.2.** There is ~~hereby~~ imposed a tax of four and two tenths percent, at the
18 rate set forth in § 10-46-2.1, upon the privilege of the use of any ancillary services.

19 **Section 20. That a NEW SECTION be added to chapter 10-46:**

20 The rate of tax imposed by this chapter upon the use, storage, or consumption in
21 this state of food and food ingredients is zero percent.

22 **Section 21. That § 10-46E-1 be AMENDED:**

23 **10-46E-1.** There is ~~hereby~~ imposed an excise tax of four and two tenths percent,
24 at the rate of six and ~~two tenths~~ one-half percent, on the gross receipts from the sale,
25 resale, or lease of farm machinery, attachment units, and irrigation equipment used
26 exclusively for agricultural purposes. ~~However, if~~ If any trade-in or exchange of used farm
27 machinery, attachment units, and irrigation equipment is involved in the transaction, the
28 excise tax is only due and may only be collected on the cash difference.

29 **Section 22. That § 10-46E-9 be AMENDED:**

1 **10-46E-9.** ~~The~~ Except as otherwise provided, revenue from the tax imposed by
2 this chapter ~~shall~~ must be deposited in the general fund.

3 The treasurer shall deposit in the local effort replacement fund, established in
4 section ~~25 29~~ of this Act, ~~thirty-two and three-tenths~~ thirty-five and four-tenths percent
5 of the taxes collected by the secretary of the Department of Revenue pursuant to this
6 chapter.

7 **Section 23. That § 10-58-1 be AMENDED:**

8 **10-58-1.** There is imposed upon owners and operators a special amusement
9 excise tax of ~~four and two-tenths~~ six and ~~two-tenths~~ one-half percent of the gross receipts
10 from the sale or the operation of any mechanical or electronic amusement device. The tax
11 imposed by this section is in lieu of the tax imposed pursuant to chapter 10-45.

12 **Section 24. That § 10-58-5 be AMENDED:**

13 **10-58-5.** ~~The~~ Except as otherwise provided, the tax generated by this chapter
14 must be deposited in the general fund.

15 The treasurer shall deposit in the local effort replacement fund, established in
16 section ~~25 29~~ of this Act, ~~thirty-two and three-tenths~~ thirty-five and four-tenths percent
17 of the taxes collected by the secretary of the Department of Revenue pursuant to this
18 chapter.

19 **Section 25. That § 13-13-72 be AMENDED:**

20 **13-13-72.** It is the policy of the Legislature that the appropriation for state aid to
21 education ~~increase on an annual basis~~ increases annually by the percentage increase in
22 local need on an aggregate statewide basis ~~so that the relative proportion of local need~~
23 ~~paid by local effort and state aid shall remain constant. For school fiscal years 2017 to~~
24 ~~2022, inclusive, the proportion of local need paid by local effort and state aid shall be~~
25 ~~adjusted annually to maintain the proportion between state aid and local property taxes~~
26 ~~and to reflect adjustments in local effort due to the implementation of the other revenue~~
27 ~~base amount as defined in § 13-13-10.1.~~

28 **Section 26. That § 13-13-72.1 be AMENDED:**

29 **13-13-72.1.** Any adjustments in the levies specified in § 10-12-42 made pursuant
30 to ~~§§ 13-13-71 and § 13-13-72~~ shall must be based on maintaining the relationship

between statewide local effort as a percentage of statewide local need in the fiscal year succeeding the fiscal year in which the adjustment is made. ~~For school fiscal years 2017 to 2022, inclusive, the proportion of local need paid by local effort and state aid shall be adjusted annually to reflect adjustments in local effort due to the implementation of the other revenue base amount as defined in § 13-13-10.1. However, if~~ If the levies specified in § 10-12-42 are not adjusted to maintain this relationship, the target teacher salary as defined in § 13-13-10.1 ~~shall~~ must be reduced to maintain the relationship between statewide local effort as a percentage of statewide local need.

Section 27. That § 13-13-78 be AMENDED:

13-13-78. Terms used in § 13-13-79 mean:

- (1) "Sparse school district," a school district that meets each of the following criteria:
 - (a) Has a fall enrollment per square mile of 0.50 or less;
 - (b) Has a fall enrollment of five hundred or less;
 - (c) Has an area of four hundred square miles or more;
 - (d) Has at least fifteen miles between its secondary attendance center or centers and that of an adjoining district; and
 - (e) Operates a secondary attendance center; and
 - (f) ~~Levies ad valorem taxes at the maximum rates allowed pursuant to § 10-12-42 or more;~~
- (2) "Sparsity fall enrollment," for sparse school districts with a fall enrollment as defined in § 13-13-10.1 of less than eighty-three or greater than two hundred thirty-two, and is calculated as follows:
 - (a) Divide the fall enrollment as defined in § 13-13-10.1 by the area of the school district in square miles;
 - (b) Multiply the quotient obtained in subsection (a) times negative 0.125;
 - (c) Add 0.0625 to the product obtained in subsection (b); and
 - (d) Multiply the sum obtained in subsection (c) times the fall enrollment;
- (3) "Sparsity adjusted fall enrollment," for sparse school districts with a fall enrollment as defined in § 13-13-10.1 of at least eighty-three, but no more than two hundred thirty-two, subtract the fall enrollment from two hundred thirty-two.

Section 28. That § 13-13-92 be AMENDED:

13-13-92. The state general fund savings obtained through the state aid to education formula from the difference between the school general fund levy for agriculture

property for taxes payable in 2018 pursuant to §§ ~~13-13-71~~, 13-13-72, and 13-13-72.1, and the agriculture property levy adopted by legislative action for taxes payable in 2018, are in place until July 1, 2040.

Section 29. That a NEW SECTION be added to chapter 13-13:

There is created in the state treasury the local effort replacement fund. The treasurer shall deposit in the fund ~~thirty-two and three-tenths~~ thirty-five and four-tenths percent of the taxes collected pursuant to:

(1) Chapter 10-45;

(2) Chapter 10-46;

(3) Chapter 10-46E;

(4) Chapter 10-58; and

(5) § 32-5B-20.

The Department of Education shall administer the fund. The purpose of the fund is to supplement property tax local effort for school district general funds and special education funds with state revenue. Interest on moneys credited to the fund must remain in the fund. Expenditures from the fund must be budgeted through the general appropriation bill.

Section 30. That § 13-37-16 be AMENDED:

13-37-16. For taxes payable in ~~2026~~ 2027, and each year thereafter, the school board shall may levy no more than ~~one dollar and forty-six and two-tenths~~ zero dollars and zero cents per thousand dollars of taxable valuation, as a special levy in addition to all other levies authorized by law for the amount so determined to be necessary, and the levy must be spread against all of the taxable property of the district. The proceeds derived from the levy constitute a school district special education fund of the district for the payment of costs for the special education of all children in need of special education or special education and related services who reside within the district pursuant to the provisions of §§ 13-37-8.4 to 13-37-8.10, inclusive. The levy in this section is based on valuations where the median level of assessment represents eighty-five percent of market value as determined by the Department of Revenue. The total amount of taxes that would be generated at the levy pursuant to this section is considered local effort. Money in the special education fund may be expended for the purchase or lease of any assistive technology that is directly related to special education and specified in a student's individualized education plan. ~~This section does not apply to real property improvements.~~

Section 31. That § 13-37-35.1 be AMENDED:

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

- (1) "Level one disability," a mild disability;
- (2) "Level two disability," cognitive disability or emotional disorder;
- (3) "Level three disability," hearing impairment, deafness, visual impairment, deaf-blindness, orthopedic impairment, or traumatic brain injury;
- (4) "Level four disability," autism;
- (5) "Level five disability," multiple disabilities;
- (5A) "Level six disability," prolonged assistance;
- (6) "Index factor," is the annual percentage change in the consumer price index for urban wage earners and clerical workers as computed by the Bureau of Labor Statistics of the United States Department of Labor for the year before the year immediately preceding the year of adjustment, or three percent, whichever is less;
- (7) "Local effort," ~~must be an amount~~ calculated for taxes payable in 2026 2027 and thereafter using ~~a the maximum~~ special education levy of one dollar and twenty-six and two tenths cents per one thousand dollars of valuation set forth in § 13-37-16;
- (8) "Allocation for a student with a level one disability," for the school fiscal year beginning July 1, 2025, is \$7,650.45. For each school year thereafter, the allocation for a student with a level one disability must be the previous fiscal year's allocation for the child increased by the index factor;
- (9) "Allocation for a student with a level two disability," for the school fiscal year beginning July 1, 2025, is \$16,759.91. For each school year thereafter, the allocation for a student with a level two disability must be the previous fiscal year's allocation for the child increased by the index factor;
- (10) "Allocation for a student with a level three disability," for the school fiscal year beginning July 1, 2025, is \$23,139.68. For each school year thereafter, the allocation for a student with a level three disability must be the previous fiscal year's allocation for the child increased by the index factor;
- (11) "Allocation for a student with a level four disability," for the school fiscal year beginning July 1, 2025, is \$18,053.89. For each school year thereafter, the allocation for a student with a level four disability must be the previous fiscal year's allocation for the child increased by the index factor;
- (12) "Allocation for a student with a level five disability," for the school fiscal year beginning July 1, 2025, is \$37,039.28. For each school year thereafter, the

- 1 allocation for a student with a level five disability must be the previous fiscal year's
2 allocation for the 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, 2025, is \$11,838.15. For each school year thereafter, the
5 allocation for a student with a level six disability must be the previous fiscal year's
6 allocation for the 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 (14) "Fall enrollment," the number of kindergarten-through-twelfth-grade students
11 enrolled in all schools operated by the school district on the last Friday of
12 September of the previous school year minus the number of students for whom
13 the district receives tuition, except any nonresident student who is in the care and
14 custody of a state agency and is attending a public school and any student for
15 whom tuition is being paid pursuant to § 13-28-42.1, plus the number of students
16 for whom the district pays tuition;
- 17 (15) "Nonpublic school," a sectarian organization or entity accredited by the secretary of
18 education for the purpose of instructing children of compulsory school age. This
19 definition excludes any school that receives a majority of its revenues from public
20 funds;
- 21 (16) "Nonpublic fall enrollment," the number of children under age eighteen, who are
22 approved for alternative instruction pursuant to § 13-27-3 on the last Friday of
23 September of the previous school year plus:
- 24 (a) For nonpublic schools located within the boundaries of a public school
25 district with a fall enrollment of six hundred or more on the last Friday of
26 September of the previous school year, the number of kindergarten-
27 through-twelfth-grade students enrolled on the last Friday of September of
28 the previous regular school year in all nonpublic schools located within the
29 boundaries of the public school district;
- 30 (b) For nonpublic schools located within the boundaries of a public school
31 district with a fall enrollment of less than six hundred on the last Friday of
32 September of the previous school year, the number of resident
33 kindergarten-through-twelfth-grade students enrolled on the last Friday of
34 September of the previous school year in all nonpublic schools located
35 within this state;

- 1 (17) "Special education fall enrollment," fall enrollment plus nonpublic fall enrollment;
- 2 (18) "Local need," an amount to be determined as follows:
- 3 (a) Multiply the special education fall enrollment by 0.1062 and multiply the
- 4 result by the allocation for a student with a level one disability;
- 5 (b) Multiply the number of students having a level two disability as reported on
- 6 the child count for the previous school fiscal year by the allocation for a
- 7 student with a level two disability;
- 8 (c) Multiply the number of students having a level three disability as reported
- 9 on the child count for the previous school fiscal year by the allocation for a
- 10 student with a level three disability;
- 11 (d) Multiply the number of students having a level four disability as reported on
- 12 the child count for the previous school fiscal year by the allocation for a
- 13 student with a level four disability;
- 14 (e) Multiply the number of students having a level five disability as reported on
- 15 the child count for the previous school fiscal year by the allocation for a
- 16 student with a level five disability;
- 17 (f) Multiply the number of students having a level six disability as reported on
- 18 the child count for the previous school fiscal year by the allocation for a
- 19 student with a level six disability;
- 20 (g) When calculating local need at the statewide level, include the amount set
- 21 aside for extraordinary expenses defined in § 13-37-40;
- 22 (h) When calculating local need at the statewide level, include the amount set
- 23 aside for the South Dakota School for the Blind and Visually Impaired; and
- 24 (i) Sum the results of subdivisions (18)(a) to (h), inclusive; and
- 25 (19) "Effort factor," ~~the school district's special education tax levy in dollars per thousand~~
- 26 ~~divided by \$1.262. The maximum effort factor is 1.0~~ zero and zero-tenths.

27 **Section 32. That § 32-5B-20 be AMENDED:**

28 **32-5B-20.** ~~There is hereby imposed a tax of four and two-tenths, at the rate of~~

29 six and ~~two-tenths one-half~~ percent, upon the gross receipts of any person renting a rental

30 vehicle as defined in § 32-5B-19. This tax applies to all vehicles registered in accordance

31 with § 32-5-6, 32-5-8.1, or 32-5-9. Any rental vehicle not licensed in accordance with

32 § 32-5-6, 32-5-8.1, or 32-5-9 is subject to the motor vehicle excise tax in § 32-5B-1.

33 The tax imposed by this section is in addition to any tax levied pursuant to chapter

34 10-45 or 10-46 upon the rental of a rental vehicle. The provisions of chapter 10-45 apply

to the administration and enforcement of the tax imposed by this section. The tax imposed by this section is in lieu of the tax levied by § 32-5B-1 on the sales of such motor vehicles. A violation of this section is a Class 1 misdemeanor.

Section 33. That § 32-5B-25 be AMENDED:

32-5B-25. ~~All~~ Except as otherwise provided, all excise taxes collected on the purchase of an off-road vehicle as provided by § 32-5B-1 ~~shall~~ must be deposited in the state general fund.

The treasurer shall deposit in the local effort replacement fund, established in section ~~25~~ 29 of this Act, ~~thirty two and three tenths~~ thirty-five and four-tenths percent of the taxes collected by the secretary of the Department of Revenue pursuant to § 32-5B-20.

Section 34. That § 13-13-71 be REPEALED.

~~If local effort increases on a statewide aggregate basis by a greater percentage than local need on a statewide aggregate basis from any one year to the next, for the following year each of the levies specified in subdivision 13-13-10.1(13) shall be reduced proportionally so that the percentage increase in local effort on a statewide aggregate basis equals the percentage increase in need on a statewide aggregate basis.~~

Section 35. That § 13-37-16.2 be REPEALED.

~~If local effort increases on a statewide aggregate basis by a greater percentage than local need on a statewide aggregate basis from any one year to the next, for the following year, the levy specified in subdivision 13-37-35.1(7) shall be reduced proportionally so that the percentage increase in local effort on a statewide aggregate basis equals the percentage increase in need on a statewide aggregate basis.~~

Section 36. That § 13-37-16.3 be REPEALED.

~~Any adjustments in the levy specified in subdivision 13-37-35.1(7) made pursuant to § 13-37-16.2 shall be based on maintaining the relationship between statewide local effort as a percentage of statewide local need in the fiscal year succeeding the fiscal year in which the adjustment is made. However, for fiscal year 2014, and each year thereafter, if the levy specified in subdivision 13-37-35.1(7) is not adjusted to maintain this relationship, the funding allocation for each disability level as defined in § 13-37-35.1 shall~~

1 ~~be reduced proportionally to maintain the relationship between statewide local effort as a~~
2 ~~percentage of statewide local need.~~

3 **Section 37. That 2023 Session Laws, chapter 32, § 19 be REPEALED:**

4 **Section 38.** ~~The amendments to the Code sections in sections 1 to 17, inclusive,~~
5 ~~of this Act are repealed on June 30, 2027, and those Code sections will revert in word and~~
6 ~~substance to that which existed immediately prior to the effective date of this Act.~~

7 **Section 39.** Sections 2 to 20, inclusive, and sections 25, 28, and 29 of this Act are effective
8 beginning July 1, 2027.