

# State of South Dakota

NINETY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2016

400X0324

## HOUSE BILL NO. 1043

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

1 FOR AN ACT ENTITLED, An Act to revise the state aid to special education formula.

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

3 Section 1. That § 13-37-16 be amended to read:

4 13-37-16. For taxes payable in ~~2016~~ 2017, and each year thereafter, the school board shall  
5 levy no more than one dollar and ~~forty and nine~~ fifty and five tenths cents per thousand dollars  
6 of taxable valuation, as a special levy in addition to all other levies authorized by law for the  
7 amount so determined to be necessary, and such levy shall be spread against all of the taxable  
8 property of the district. The proceeds derived from such levy shall constitute a school district  
9 special education fund of the district for the payment of costs for the special education of all  
10 children in need of special education or special education and related services who reside within  
11 the district pursuant to the provisions of §§ 13-37-8.2 to 13-37-8.10, inclusive. The levy in this  
12 section shall be based on valuations such that the median level of assessment represents ~~85%~~  
13 eighty-five percent of market value as determined by the Department of Revenue. The total  
14 amount of taxes that would be generated at the levy pursuant to this section shall be considered  
15 local effort. Money in the special education fund may be expended for the purchase or lease of



1 any assistive technology that is directly related to special education and specified in a student's  
2 individualized education plan. This section does not apply to real property improvements.

3 Section 2. That § 13-37-35.1 be amended to read:

4 13-37-35.1. Terms used in chapter 13-37 mean:

5 (1) "Level one disability," a mild disability;

6 (2) "Level two disability," cognitive disability or emotional disorder;

7 (3) "Level three disability," hearing impairment, deafness, visual impairment, deaf-  
8 blindness, orthopedic impairment, or traumatic brain injury;

9 (4) "Level four disability," autism;

10 (5) "Level five disability," multiple disabilities;

11 (5A) "Level six disability," prolonged assistance;

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

16 (7) "Local effort," shall be calculated for taxes payable in 2016 and thereafter using a  
17 special education levy of one dollar and ~~twenty and nine~~ thirty and five tenths cents  
18 per one thousand dollars of valuation;

19 (8) "Allocation for a student with a level one disability," for the school fiscal year  
20 beginning July 1, ~~2015~~ 2016, is ~~\$4,896.58~~ \$5,456. For each school year thereafter,  
21 the allocation for a student with a level one disability shall be the previous fiscal  
22 year's allocation for such child increased by the lesser of the index factor or three  
23 percent;

24 (9) "Allocation for a student with a level two disability," for the school fiscal year

1 beginning July 1, ~~2015~~ 2016, is ~~\$12,037.48~~ \$12,592. For each school year thereafter,  
2 the allocation for a student with a level two disability shall be the previous fiscal  
3 year's allocation for such child increased by the lesser of the index factor or three  
4 percent;

5 (10) "Allocation for a student with a level three disability," for the school fiscal year  
6 beginning July 1, ~~2015~~ 2016, is ~~\$16,002.36~~ \$16,049. For each school year thereafter,  
7 the allocation for a student with a level three disability shall be the previous fiscal  
8 year's allocation for such child increased by the lesser of the index factor or three  
9 percent;

10 (11) "Allocation for a student with a level four disability," for the school fiscal year  
11 beginning July 1, ~~2015~~ 2016, is ~~\$14,288.28~~ \$15,564. For each school year thereafter,  
12 the allocation for a student with a level four disability shall be the previous fiscal  
13 year's allocation for such child increased by the lesser of the index factor or three  
14 percent;

15 (12) "Allocation for a student with a level five disability," for the school fiscal year  
16 beginning July 1, ~~2015~~ 2016, is ~~\$21,634.78~~ \$27,799. For each school year thereafter,  
17 the allocation for a student with a level five disability shall be the previous fiscal  
18 year's allocation for such child increased by the lesser of the index factor or three  
19 percent;

20 (12A) "Allocation for a student with a level six disability," for the school fiscal year  
21 beginning July 1, ~~2015~~ 2016, is ~~\$7,796.66~~ \$8,007. For each school year thereafter,  
22 the allocation for a student with a level six disability shall be the previous fiscal  
23 year's allocation for such child increased by the lesser of the index factor or three  
24 percent;

- 1 (13) "Child count," is the number of students in need of special education or special  
2 education and related services according to criteria set forth in rules promulgated  
3 pursuant to §§ 13-37-1.1 and 13-37-46 submitted to the Department of Education in  
4 accordance with rules promulgated pursuant to § 13-37-1.1;
- 5 (14) "Fall enrollment," the number of kindergarten through twelfth grade ~~pupils~~ students  
6 enrolled in all schools operated by the school district on the last Friday of September  
7 of the previous school year minus the number of students for whom the district  
8 receives tuition, except any nonresident student who is in the care and custody of a  
9 state agency and is attending a public school and any student for whom tuition is  
10 being paid pursuant to § 13-28-42.1, plus the number of students for whom the  
11 district pays tuition;
- 12 (15) "Nonpublic school," a sectarian organization or entity which is accredited by the  
13 secretary of education for the purpose of instructing children of compulsory school  
14 age. This definition excludes any school that receives a majority of its revenues from  
15 public funds;
- 16 (16) "Nonpublic fall enrollment," the number of children under age eighteen, who are  
17 approved for alternative instruction pursuant to § 13-27-2 on the last Friday of  
18 September of the previous school year plus:
- 19 (a) For nonpublic schools located within the boundaries of a public school district  
20 with a fall enrollment of six hundred or more on the last Friday of September  
21 of the previous school year, the number of kindergarten through twelfth grade  
22 ~~pupils~~ students enrolled on the last Friday of September of the previous  
23 regular school year in all nonpublic schools located within the boundaries of  
24 the public school district;

1 (b) For nonpublic schools located within the boundaries of a public school district  
2 with a fall enrollment of less than six hundred on the last Friday of September  
3 of the previous school year, the number of resident kindergarten through  
4 twelfth grade ~~pupils~~ students enrolled on the last Friday of September of the  
5 previous school year in all nonpublic schools located within the State of South  
6 Dakota;

7 (17) "Special education fall enrollment," fall enrollment plus nonpublic fall enrollment;

8 (18) "Local need," an amount to be determined as follows:

9 (a) Multiply the special education fall enrollment by ~~0.1004~~ 0.1 and multiply the  
10 result by the allocation for a student with a level one disability;

11 (b) Multiply the number of students having a level two disability as reported on  
12 the child count for the previous school fiscal year by the allocation for a  
13 student with a level two disability;

14 (c) Multiply the number of students having a level three disability as reported on  
15 the child count for the previous school fiscal year by the allocation for a  
16 student with a level three disability;

17 (d) Multiply the number of students having a level four disability as reported on  
18 the child count for the previous school fiscal year by the allocation for a  
19 student with a level four disability;

20 (e) Multiply the number of students having a level five disability as reported on  
21 the child count for the previous school fiscal year by the allocation for a  
22 student with a level five disability;

23 (f) Multiply the number of students having a level six disability as reported on the  
24 child count for the previous school fiscal year by the allocation for a student

1 with a level six disability;

2 (g) When calculating local need at the statewide level, include the amount set  
3 aside for extraordinary costs defined in § 13-37-40;

4 (h) When calculating local need at the statewide level, include the amount set  
5 aside for the South Dakota School for the Blind and Visually Impaired;

6 (i) Sum the results of (a) to (h), inclusive;

7 (19) "Effort factor," the school district's special education tax levy in dollars per thousand  
8 divided by ~~\$1.209~~ \$1.305. The maximum effort factor is 1.0.