

# State of South Dakota

## EIGHTY-THIRD SESSION LEGISLATIVE ASSEMBLY, 2008

258P0045

HOUSE BILL NO. 45

Introduced by: \_\_\_\_\_

1 FOR AN ACT ENTITLED, **An Act to revise certain tax levy limitations and property tax levies**  
2 **for school districts.**

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

4 Section 1. That § 13-13-72.1 be amended to read as follows:

5 13-13-72.1. Any adjustments in the levies specified in ~~subdivision 13-13-10.1(6)~~ § 10-12-42  
6 made pursuant to §§ 13-13-71 and 13-13-72 shall be based on maintaining the relationship  
7 between statewide local effort as a percentage of statewide local need in the fiscal year  
8 succeeding the fiscal year in which the adjustment is made. In addition to the adjustments in the  
9 levies provided by this section, the levies for nonagricultural property and owner-occupied  
10 single-family dwellings shall also be adjusted as necessary to account for the additional increase  
11 in the total assessed value for nonagricultural property and owner-occupied single-family  
12 dwellings pursuant to the phasing out and repeal of the provisions found § 10-6-74.

13 Section 2. That § 13-16-7 be amended to read as follows:

14 13-16-7. The school board of any school district of this state may at its discretion authorize  
15 an annual levy of a tax not to exceed three dollars per thousand dollars of taxable valuation on  
16 the taxable valuation of the district for the capital outlay fund for assets as defined by § 13-16-6



1 or for its obligations under a resolution, lease-purchase agreement, capital outlay certificate, or  
2 other arrangement with the Health and Educational Facilities Authority. Taxes collected pursuant  
3 to such levy may be irrevocably pledged by the school board to the payment of principal of and  
4 interest on installment purchase contracts or capital outlay certificates entered into or issued  
5 pursuant to § 13-16-6 or 13-16-6.2 or lease-purchase agreements or other arrangement with the  
6 Health and Educational Facilities Authority and, so long as any capital outlay certificates are  
7 outstanding, installment agreement payments, lease-purchase agreements, or other arrangements  
8 are unpaid, the school board of any district may be compelled by mandamus or other appropriate  
9 remedy to levy an annual tax sufficient to pay principal and interest thereon, but not to exceed  
10 the three dollars per thousand dollars of taxable valuation in any year authorized to be levied  
11 hereby.

12 For taxes payable in 2010, the total amount of revenue payable from the levy provided in this  
13 section may not increase more than the lesser of three percent or the index factor, as defined in  
14 § 10-13-38, over the maximum amount of revenue that could have been generated for the taxes  
15 payable in 2009. After applying the index factor, a school district may increase the revenue  
16 payable from taxes on real property above the limitations provided by this section by the  
17 percentage increase of value resulting from any improvements or change in use of real property,  
18 annexation, minor boundary changes, and any adjustments in taxation of real property separately  
19 classified and subject to statutory adjustments and reductions under chapters 10-4, 10-6, 10-6A,  
20 and 10-6B, except § 10-6-31.4, only if assessed the same as property of equal value. A school  
21 district may increase the revenue it receives from taxes on real property above the limit provided  
22 by this section for taxes levied to pay the principal, interest, and redemption charges on any  
23 bonds issued after January 1, 2008, which are subject to referendum, scheduled payment  
24 increases on bonds and for a levy directed by the order of a court for the purpose of paying a

1 judgment against such school district. Any school district created or reorganized after January 1,  
2 2008, is exempt from the limitation provided by this section for a period of two years  
3 immediately following its creation.

4 For taxes payable in 2011, 2012, 2013, and 2014, the total amount of revenue payable from  
5 the levy provided in this section may not increase more than the lesser of three percent or the  
6 index factor, as defined in § 10-13-38, over the maximum amount of revenue that could have  
7 been generated for the taxes payable in 2009 plus any unused index factor from the previous  
8 years. After applying the index factor, a school district may increase the revenue payable from  
9 taxes on real property above the limitations provided by this section by the percentage increase  
10 of value resulting from any improvements or change in use of real property, annexation, minor  
11 boundary changes, and any adjustments in taxation of real property separately classified and  
12 subject to statutory adjustments and reductions under chapters 10-4, 10-6, 10-6A, and 10-6B,  
13 except § 10-6-31.4, only if assessed the same as property of equal value. A school district may  
14 increase the revenue it receives from taxes on real property above the limit provided by this  
15 section for taxes levied to pay the principal, interest, and redemption charges on any bonds  
16 issued after January 1, 2008, which are subject to referendum, scheduled payment increases on  
17 bonds and for a levy directed by the order of a court for the purpose of paying a judgment  
18 against such school district. Any school district created or reorganized after January 1, 2008, is  
19 exempt from the limitation provided by this section for a period of two years immediately  
20 following its creation.

21 For taxes payable in 2010, 2011, 2012, 2013, and 2014, the levy limitation of three dollars  
22 per thousand dollars of taxable valuation does not apply to any school district.

23 Section 3. That § 13-37-16 be amended to read as follows:

24 13-37-16. For taxes payable in 1997, and each year thereafter, the school board shall levy

1 no more than one dollar and forty cents per thousand dollars of taxable valuation, as a special  
2 levy in addition to all other levies authorized by law for the amount so determined to be  
3 necessary, and such levy shall be spread against all of the taxable property of the district. The  
4 proceeds derived from such levy shall constitute a school district special education fund of the  
5 district for the payment of costs for the special education of all children in need of special  
6 education or special education and related services who reside within the district pursuant to the  
7 provisions of §§ 13-37-8.2 to 13-37-8.10, inclusive. The levy in this section shall be based on  
8 valuations such that the median level of assessment represents 85% of market value as  
9 determined by the Department of Revenue and Regulation. The total amount of taxes that would  
10 be generated at the levy pursuant to this section shall be considered local effort. Money in the  
11 special education fund may be expended for the purchase or lease of any assistive technology that  
12 is directly related to special education and specified in a student's individualized education plan.  
13 This section does not apply to real property improvements.

14 For taxes payable in 2010, the total amount of revenue payable from the levy provided in this  
15 section may not increase more than the lesser of three percent or the index factor, as defined in  
16 § 10-13-38, over the maximum amount of revenue that could have been generated for the taxes  
17 payable in 2009. After applying the index factor, a school district may increase the revenue  
18 payable from taxes on real property above the limitations provided by this section by the  
19 percentage increase of value resulting from any improvements or change in use of real property,  
20 annexation, minor boundary changes, and any adjustments in taxation of real property separately  
21 classified and subject to statutory adjustments and reductions under chapters 10-4, 10-6, 10-6A,  
22 and 10-6B, except § 10-6-31.4, only if assessed the same as property of equal value.

23 Any school district created or reorganized after January 1, 2008, is exempt from the  
24 limitation provided by this section for a period of two years immediately following its creation.

1 For taxes payable in 2011, 2012, 2013, and 2014, the total amount of revenue payable from  
2 the levy provided in this section may not increase more than the lesser of three percent or the  
3 index factor, as defined in § 10-13-38, over the maximum amount of revenue that could have  
4 been generated for the taxes payable in 2009 plus any unused index factor from the previous  
5 years. After applying the index factor, a school district may increase the revenue payable from  
6 taxes on real property above the limitations provided by this section by the percentage increase  
7 of value resulting from any improvements or change in use of real property, annexation, minor  
8 boundary changes, and any adjustments in taxation of real property separately classified and  
9 subject to statutory adjustments and reductions under chapters 10-4, 10-6, 10-6A, and 10-6B,  
10 except § 10-6-31.4, only if assessed the same as property of equal value.

11 For taxes payable in 2010, 2011, 2012, 2013, and 2014, the levy limitation of one dollar and  
12 forty cents per thousand dollars of taxable valuation does not apply to any school district.

13 Section 4. That § 13-37-35.1 be amended to read as follows:

14 13-37-35.1. Terms used in chapter 13-37 mean:

- 15 (1) "Level one disability," a mild disability;
- 16 (2) "Level two disability," a mental retardation or emotional disorder;
- 17 (3) "Level three disability," hearing impairment, deafness, visual impairment, deaf-  
18 blindness, orthopedic impairment, or traumatic brain injury;
- 19 (4) "Level four disability," autism;
- 20 (5) "Level five disability," multiple disabilities;
- 21 (5A) "Level six disability," prolonged assistance;
- 22 (6) "Index factor," is the annual percentage change in the consumer price index for urban  
23 wage earners and clerical workers as computed by the Bureau of Labor Statistics of  
24 the United States Department of Labor for the year before the year immediately

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

2 (7) "Local effort," shall be calculated for taxes payable in ~~2006 and thereafter~~ using a  
 3 ~~special education levy of one dollar and twenty cents per one thousand dollars of~~  
 4 ~~valuation~~ 2010 shall be the amount of revenue that could have been generated for the  
 5 taxes payable in 2009 using a special education levy of one dollar and twenty cents  
 6 per one thousand dollars of valuation increased by the lesser of three percent or the  
 7 index factor, as defined in § 10-13-38, plus a percentage increase of value resulting  
 8 from any improvements or change in use of real property, annexation, minor boundary  
 9 changes, and any adjustments in taxation of real property separately classified and  
 10 subject to statutory adjustments and reductions under chapters 10-4, 10-6, 10-6A, and  
 11 10-6B, except § 10-6-31.4, only if assessed the same as property of equal value.

12 For taxes payable in 2011, 2012, 2013, and 2014, the total amount of local effort shall  
 13 be increased by the lesser of three percent or the index factor, established pursuant to  
 14 § 10-13-38 plus a percentage increase of value resulting from any improvements or  
 15 change in use of real property, annexation, minor boundary changes, and any  
 16 adjustments in taxation of real property separately classified and subject to statutory  
 17 adjustments and reductions under chapters 10-4, 10-6, 10-6A, and 10-6B, except  
 18 § 10-6-31.4, only if assessed the same as property of equal value;

19 (8) "Allocation for a student with a level one disability," for the school fiscal year  
 20 beginning July 1, 2004, is \$ 3,533.13. For each school year thereafter, the allocation  
 21 for a student with a level one disability shall be the previous fiscal year's allocation for  
 22 such child increased by the lesser of the index factor or three percent;

23 (9) "Allocation for a student with a level two disability," for the school fiscal year  
 24 beginning July 1, 2004, is \$ 8,277.21. For each school year thereafter, the allocation

1 for a student with a level two disability shall be the previous fiscal year's allocation for  
2 such child increased by the lesser of the index factor or three percent;

3 (10) "Allocation for a student with a level three disability," for the school fiscal year  
4 beginning July 1, 2004, is \$ 12, 580.73. For each school year thereafter, the allocation  
5 for a student with a level three disability shall be the previous fiscal year's allocation  
6 for such child increased by the lesser of the index factor or three percent;

7 (11) "Allocation for a student with a level four disability," for the school fiscal year  
8 beginning July 1, 2004, is \$ 12, 001.80. For each school year thereafter, the allocation  
9 for a student with a level four disability shall be the previous fiscal year's allocation  
10 for such child increased by the lesser of the index factor or three percent;

11 (12) "Allocation for a student with a level five disability," for the school fiscal year  
12 beginning July 1, 2004, is \$ 15, 882.21. For each school year thereafter, the allocation  
13 for a student with a level five disability shall be the previous fiscal year's allocation for  
14 such child increased by the lesser of the index factor or three percent;

15 (12A) "Allocation for a student with a level six disability," for the school fiscal year  
16 beginning July 2004, is \$8,122.23. For each school year thereafter, the allocation for  
17 a student with a level six disability shall be the previous fiscal year's allocation for such  
18 child increased by the lesser of the index factor or three percent;

19 (13) "Child count," is the number of students in need of special education or special  
20 education and related services according to criteria set forth in rules promulgated  
21 pursuant to §§ 13-37-1.1 and 13-37-46 submitted to the Department of Education in  
22 accordance with rules promulgated pursuant to § 13-37-1.1;

23 (14) "Average daily membership," the average number of kindergarten through twelfth  
24 grade pupils enrolled in all schools operated by the school district during the previous

1 regular school year plus the average number of pupils for whom the district pays  
2 tuition;

3 (15) "Nonpublic school," a sectarian organization or entity which is accredited by the  
4 secretary of education for the purpose of instructing children of compulsory school  
5 age. This definition excludes any school that receives a majority of its revenues from  
6 public funds;

7 (16) "Nonpublic average daily membership," the average number of children under age  
8 sixteen who are approved for alternative instruction pursuant to § 13-27-2 during the  
9 previous school year plus:

10 (a) For nonpublic schools located within the boundaries of a public school district  
11 with an average daily membership of six hundred or more during the previous  
12 school year, the average number of kindergarten through twelfth grade pupils  
13 enrolled during the previous regular school year in all nonpublic schools  
14 located within the boundaries of the public school district;

15 (b) For nonpublic schools located within the boundaries of a public school district  
16 with an average daily membership of less than six hundred during the previous  
17 school year, the average number of resident kindergarten through twelfth grade  
18 pupils enrolled during the previous school year in all nonpublic schools located  
19 within the State of South Dakota;

20 (17) "Special education average daily membership," average daily membership plus  
21 nonpublic average daily membership;

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

23 (a) Multiply the special education average daily membership by 0.1013 and  
24 multiply the result by the allocation for a student with a level one disability;

- 1 (b) Multiply the number of students having a level two disability as reported on the
- 2 child count for the previous school fiscal year by the allocation for a student
- 3 with a level two disability;
- 4 (c) Multiply the number of students having a level three disability as reported on
- 5 the child count for the previous school fiscal year by the allocation for a
- 6 student with a level three disability;
- 7 (d) Multiply the number of students having a level four disability as reported on the
- 8 child count for the previous school fiscal year by the allocation for a student
- 9 with a level four disability;
- 10 (e) Multiply the number of students having a level five disability as reported on the
- 11 child count for the previous school fiscal year by the allocation for a student
- 12 with a level five disability;
- 13 (f) Multiply the number of students having a level six disability as reported on the
- 14 child count for the previous school fiscal year by the allocation for a student
- 15 with a level six disability;
- 16 (g) Sum the results of (a) through (f);
- 17 (19) "Effort factor," ~~the school district's special education tax levy in dollars per thousand~~
- 18 ~~divided by \$1.20~~ taxes payable 2010, 2011, 2012, 2013, and 2014 shall be the amount
- 19 of taxes payable for the year divided by the amount of local effort as calculated in
- 20 subdivision (7). The maximum effort factor is 1.0.