

# State of South Dakota

NINETIETH SESSION  
LEGISLATIVE ASSEMBLY, 2015

564W0667

## HOUSE BILL NO. 1207

Introduced by: Representatives Cronin, Bartling, Dryden, Hawley, and Wink and Senators Rave, Brown, Frerichs, Peters, Peterson (Jim), Sutton, and Tidemann

1 FOR AN ACT ENTITLED, An Act to revise certain provisions concerning the school district  
2 pension fund and capital outlay fund tax levies, to provide property tax opt-out procedures  
3 for the capital outlay levy, and to revise the per student allocation.

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

5 Section 1. That § 13-10-6 be amended to read as follows:

6 13-10-6. For the purpose of continuing a fund for the payment of pensions to retired  
7 employees of a school district that has established such system, the school district may levy an  
8 annual tax not exceeding thirty cents per thousand dollars of taxable valuation of the school  
9 district for the current year. ~~The levy may not be included in determining the tax levy limitation~~  
10 ~~of the school district provided by law.~~ Moneys collected from the tax shall be kept by the  
11 business manager in a special pension fund and may not be used for any other purpose except  
12 upon discontinuance of the pension system by the school district, in which case any unexpended  
13 balance shall be transferred to the general fund.

14 ~~For taxes payable in 2011, the total amount of revenue payable from the levy provided in~~  
15 ~~this section may not increase more than the lesser of three percent or the index factor, as defined~~



1 in ~~§ 10-13-38~~, over the maximum amount of revenue that could have been generated for the  
2 taxes payable in 2010. After applying the index factor, a school district may increase the revenue  
3 payable from taxes on real property above the limitations provided by this section by the  
4 percentage increase of value resulting from any improvements or change in use of real property,  
5 annexation, minor boundary changes, and any adjustments in taxation of real property separately  
6 classified and subject to statutory adjustments and reductions under chapters 10-4, 10-6, 10-6A,  
7 and 10-6B, except § 10-6-31.4, only if assessed the same as property of equal value.

8 — For taxes payable in 2012, 2013, 2014, and 2015, the total amount of revenue payable from  
9 the levy provided in this section may not increase more than the lesser of three percent or the  
10 index factor, as defined in ~~§ 10-13-38~~, over the maximum amount of revenue that could have  
11 been generated for the taxes payable in 2010 plus any unused index factor from the previous  
12 years. After applying the index factor, a school district may increase the revenue payable from  
13 taxes on real property above the limitations provided by this section by the percentage increase  
14 of value resulting from any improvements or change in use of real property, annexation, minor  
15 boundary changes, and any adjustments in taxation of real property separately classified and  
16 subject to statutory adjustments and reductions under chapters 10-4, 10-6, 10-6A, and 10-6B,  
17 except § 10-6-31.4, only if assessed the same as property of equal value.

18 — Any school district created or reorganized after January 1, 2009, is exempt from the  
19 limitation provided by this section for a period of two years immediately following its creation.

20 — For taxes payable in 2011, 2012, 2013, 2014, and 2015, the levy limitation of thirty cents  
21 per thousand dollars of taxable valuation does not apply to any school district.

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

23 13-16-7. The school board of any school district of this state may at its discretion authorize  
24 an annual levy of a tax not to exceed three dollars per thousand dollars of taxable valuation on

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

13 ~~For taxes payable in 2011, the total amount of revenue payable from the levy provided in~~  
14 ~~this section may not increase more than the lesser of three percent or the index factor, as defined~~  
15 ~~in § 10-13-38, over the maximum amount of revenue that could have been generated for the~~  
16 ~~taxes payable in 2010. After applying the index factor, a school district may increase the revenue~~  
17 ~~payable from taxes on real property above the limitations provided by this section by the~~  
18 ~~percentage increase of value resulting from any improvements or change in use of real property,~~  
19 ~~annexation, minor boundary changes, and any adjustments in taxation of real property separately~~  
20 ~~classified and subject to statutory adjustments and reductions under chapters 10-4, 10-6, 10-6A,~~  
21 ~~and 10-6B, except § 10-6-31.4, only if assessed the same as property of equal value. A school~~  
22 ~~district may increase the revenue it receives from taxes on real property above the limit provided~~  
23 ~~by this section for taxes levied to pay the principal, interest, and redemption charges on any~~  
24 ~~bonds issued after January 1, 2009, which are subject to referendum; for scheduled payment~~

1 ~~increases on bonds, and for a levy directed by the order of a court for the purpose of paying a~~  
2 ~~judgment against the school district. Any school district created or reorganized after January 1,~~  
3 ~~2009, is exempt from the limitation provided by this section for a period of two years~~  
4 ~~immediately following its creation.~~

5 ~~— For taxes payable in 2012, 2013, 2014, and 2015, the~~ The total amount of revenue payable  
6 from the levy provided in this section may ~~not~~ increase no more than the ~~lesser~~ greater of three  
7 percent or the index factor, as defined in § 10-13-38, over the ~~maximum~~ amount of revenue ~~that~~  
8 ~~could have been generated for the taxes payable in 2010 plus any unused index factor from the~~  
9 ~~previous years~~ payable to the capital outlay fund in the preceding year. After applying the index  
10 factor, a school district may increase the revenue payable from taxes on real property above the  
11 limitations provided by this section by the percentage increase of value resulting from any  
12 improvements or change in use of real property, annexation, minor boundary changes, and any  
13 adjustments in taxation of real property separately classified and subject to statutory adjustments  
14 and reductions under chapters 10-4, 10-6, 10-6A, and 10-6B, except § 10-6-31.4, only if  
15 assessed the same as property of equal value. A school district may increase the revenue it  
16 receives from taxes on real property above the limit provided by this section for taxes levied to  
17 pay the principal, interest, and redemption charges on any bonds issued after January 1, 2009,  
18 which are subject to referendum, scheduled payment increases on bonds and for a levy directed  
19 by the order of a court for the purpose of paying a judgment against such school district. Any  
20 school district created or reorganized after January 1, ~~2009~~ 2015, is exempt from the limitation  
21 provided by this section for a period of two years immediately following its creation.

22 ~~For taxes payable in 2011, 2012, 2013, 2014, and 2015, the levy limitation of three dollars~~  
23 ~~per thousand dollars of taxable valuation does not apply to any school district.~~

24 A school district may increase the total amount of revenue payable from the levy provided

1 in this section in any year by utilizing any unused index factor from the prior three years.  
2 However, such an amount may not exceed the prior three year index factor total or ten percent,  
3 whichever is less, and in no year may the annual tax levy provided in this section exceed three  
4 dollars per thousand dollars of taxable valuation of the school district for the current year.

5 Section 3. That § 13-16-7.1 be repealed.

6 ~~13-16-7.1. For taxes payable in 2014 and 2015, the provisions of §§ 13-10-6 and 13-16-7~~  
7 ~~that limit the maximum amount of revenue that may be generated by the pension and capital~~  
8 ~~outlay tax levies do not apply to any school district that has less than a ten percent change in the~~  
9 ~~total taxable valuation from the previous year of all real property in the school district, not~~  
10 ~~including the increase of value resulting from any improvements or change in use of real~~  
11 ~~property.~~

12 Section 4. That § 13-11-3 be amended to read as follows:

13 13-11-3. The school district shall report the amount budgeted to the county auditor before  
14 October first on forms prescribed by the county auditor. The county auditor shall spread a levy  
15 in dollars and cents over the taxable property of the school district sufficient to raise the money  
16 requested by the school district subject to the legal dollars and cents limitations on any of the  
17 funds as provided by law. For the general fund; and special education fund, ~~capital outlay fund,~~  
18 ~~and pension fund~~; the school district may report the levy in dollars or dollars per one thousand  
19 dollars of taxable valuation.

20 Section 5. That chapter 13-16 be amended by adding thereto a NEW SECTION to read as  
21 follows:

22 Any school district that imposed a property tax levy for capital outlay fund purposes in the  
23 previous year in an amount less than one dollar and fifty cents per thousand dollars of taxable  
24 valuation and generated less than the statewide average per student capital outlay revenue during

1 the previous calendar year as determined by the Department of Revenue is exempt from the  
2 provisions of § 13-16-7 that limit the maximum amount of revenue that may be generated by  
3 the capital outlay tax levy.

4 Section 6. That chapter 13-16 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 Any school district that did not levy a property tax for capital outlay fund purposes in the  
7 previous year is exempt from the provisions of § 13-16-7 that limit the maximum amount of  
8 revenue that may be generated by the capital outlay tax levy if the school district establishes the  
9 amount of revenue payable from taxes on real property for capital outlay fund purposes pursuant  
10 to section 7 of this Act. Each year thereafter the school district may increase the amount of  
11 revenue payable from property taxes by applying the growth and the index factor pursuant to  
12 the provisions of § 13-16-7.

13 Section 7. That chapter 13-16 be amended by adding thereto a NEW SECTION to read as  
14 follows:

15 The governing body of a school district may, by resolution, impose the levy provided in  
16 section 6 of this Act with an affirmative two-thirds vote of the governing body on or before July  
17 fifteenth. The decision of the governing body to impose the levy shall be published within ten  
18 days of the decision as follows:

- 19 (1) Publication shall be made at least twice in the legal newspaper designated by the  
20 governing body pursuant to law, with no fewer than five days between publication  
21 dates, before the tax imposition takes effect;
- 22 (2) The announcement shall be at least three newspaper columns in width and four  
23 inches in length or at least one-sixth of a page in size, whichever size is greater;
- 24 (3) The announcement shall be headed with the following statement in a typeface no less

1 than eighteen point type: "ATTENTION TAXPAYERS: NOTICE OF PROPERTY  
2 TAX IMPOSED OF \$(fill in amount)." The remainder of the announcement shall  
3 consist of a reproduction of the resolution including the amount that property taxes  
4 will be imposed and a statement of the right to refer the decision of the board to a  
5 vote of the people as provided in this section. The secretary of revenue, in rules  
6 promulgated pursuant to chapter 1-26, shall prescribe a uniform form to be used by  
7 the taxing district for notification of taxpayers as required by this section.

8 The governing body's decision may be referred to a vote of the people upon a resolution of  
9 the governing body of the school district or by a petition signed by at least five percent of the  
10 registered voters in the school district and filed with the respective governing body within  
11 twenty days of the first publication of the decision. The referendum election shall be held on or  
12 before October first preceding the year the taxes are payable.

13 Section 8. That chapter 13-16 be amended by adding thereto a NEW SECTION to read as  
14 follows:

15 The requirements of subdivisions (2) and (3) of section 7 of this Act are waived if:

- 16 (1) The property tax imposed is for less than fifteen thousand dollars; or
- 17 (2) A copy of the resolution is:
  - 18 (a) Mailed to every property taxpayer in the school district, by first class mail or
  - 19 bulk mail, within twenty days of the decision; and
  - 20 (b) Printed in each official newspaper in the school district's boundaries.

21 For the purposes of section 7 of this Act, the first publication is not deemed to have occurred  
22 until three days after the mailing is sent or the resolution is delivered to the official newspaper.

23 Section 9. That § 10-12-43 be amended to read as follows:

24 10-12-43. The governing body of the school district may raise additional revenues for

1 general fund or capital outlay fund purposes only, from property tax through the imposition of  
2 an excess tax levy. The governing body of a school district may impose the excess tax levy with  
3 an affirmative two-thirds vote of the governing body on or before July fifteenth of the year prior  
4 to the year the taxes are payable. ~~On any excess tax levy approved after July 1, 2002, the~~ The  
5 governing body of the taxing district shall specify in the resolution the year or number of years  
6 the excess tax levy will be applied.

7 The requirements for an announcement made pursuant to this section are as follows:

- 8 (1) The decision of the governing body to originally impose or subsequently increase an  
9 excess tax levy shall be first published within ten days of the decision;
- 10 (2) Publication shall be made at least twice in the legal newspaper designated pursuant  
11 to § 13-8-10, with no fewer than five days between publication dates, before the opt  
12 out takes effect;
- 13 (3) The announcement shall be at least three newspaper columns in width and four  
14 inches in length or at least one-sixth of a page in size, whichever size is greater; and
- 15 (4) The announcement shall be headed with the following statement in a typeface no less  
16 than eighteen point type: "ATTENTION TAXPAYERS: NOTICE OF PROPERTY  
17 TAX INCREASE OF \$(fill in amount)." The remainder of the announcement shall  
18 consist of a reproduction of the "Resolution for Opt Out," including the amount that  
19 property taxes will be increased annually by the proposed opt out and a statement of  
20 the right to refer the decision of the board to a vote of the people as provided in this  
21 section. The secretary of revenue, in rules promulgated pursuant to chapter 1-26,  
22 shall prescribe a uniform form to be used by the school district for notification of  
23 taxpayers as required by this section.

24 ~~However, the requirements of subdivisions (3) and (4) shall be waived if:~~



1 ~~—(A) The opt out is for less than fifteen thousand dollars; or~~

2 ~~—(B) A copy of the resolution for opt out is mailed to every property taxpayer in the local~~  
3 ~~governmental unit, by first class mail or bulk mail, within twenty days of the decision~~  
4 ~~to opt out; and~~

5 ~~—(C) A copy of the resolution for opt out is printed in each official newspaper in the local~~  
6 ~~governmental unit's boundaries.~~

7 ~~—For the purposes of subsections (A), (B), and (C), the first publication is not deemed to have~~  
8 ~~occurred until three days after the mailing is sent or the resolution is delivered to the official~~  
9 ~~newspaper.~~

10 The opt out decision may be referred to a vote of the people upon a resolution of the  
11 governing body of the school district or by a petition signed by at least five percent of the  
12 registered voters in the school district and filed with the governing body within twenty days of  
13 the first publication of the decision. The referendum election shall be held on or before October  
14 first of the year prior to the time the taxes are payable.

15 Section 10. That chapter 10-12 be amended by adding thereto a NEW SECTION to read as  
16 follows:

17 The requirements of subdivisions 10-12-43(3) and (4) are waived if:

18 (1) The opt out is for less than fifteen thousand dollars; or

19 (2) A copy of the resolution for opt out is:

20 (a) Mailed to every property taxpayer in the school district, by first class mail or  
21 bulk mail, within twenty days of the decision to opt out; and

22 (b) Printed in each official newspaper in the school district's boundaries.

23 For the purposes of § 10-12-43, the first publication is not deemed to have occurred until  
24 three days after the mailing is sent or the resolution is delivered to the official newspaper.

1 Section 11. That subdivision (4) of § 13-13-10.1 be amended to read as follows:

2 (4) "Per student allocation," for ~~school fiscal year 2015 is \$4,781.14~~ the period July 1,  
3 2015, to December 31, 2015, inclusive, is \$4,852.86. For the period January 1, 2016,  
4 to June 30, 2016, inclusive, the per student allocation is \$4,924.86. For school fiscal  
5 year 2017, the per student allocation shall be \$4,924.86 increased by the index factor.

6 Each school fiscal year thereafter, the per student allocation is the previous fiscal  
7 year's per student allocation increased by the index factor;

8 Section 12. The provisions of §§ 13-13-71 to 13-13-72.1, inclusive, do not apply for school  
9 fiscal year 2016.

10 Section 13. That § 13-13-72 be amended to read as follows:

11 13-13-72. It is the policy of the Legislature that the appropriation for the state aid to  
12 education foundation program increase on an annual basis by the percentage increase in local  
13 need on an aggregate statewide basis so that the relative proportion of local need paid by local  
14 effort and state aid shall remain constant. ~~For school fiscal year 2013, it is the policy of the~~  
15 ~~Legislature that the relative proportion of the total local need paid by state aid shall be amended~~  
16 ~~by adjusting the proportion of state aid to fifty-three and eight-tenths percent of the total local~~  
17 ~~need.~~ However, the increase in the per student allocation on an annual basis that exceeds three  
18 percent shall be paid solely by the state and is not a factor in this policy.