

# State of South Dakota

NINETIETH SESSION  
LEGISLATIVE ASSEMBLY, 2015

400W0329

CONFERENCE COMMITTEE  
ENGROSSED NO. **SB 54** - 03/13/2015

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 certain provisions regarding the state aid to special  
2 education formula and to revise the property tax levies for special education.

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

4 Section 1. That § 13-37-16 be amended to read as follows:

5 13-37-16. For taxes payable in ~~2015~~ 2016, and each year thereafter, the school board shall  
6 levy no more than one dollar and ~~forty-seven and eight~~ forty and nine tenths cents per thousand  
7 dollars of taxable valuation, as a special levy in addition to all other levies authorized by law  
8 for the amount so determined to be necessary, and such levy shall be spread against all of the  
9 taxable property of the district. The proceeds derived from such levy shall constitute a school  
10 district special education fund of the district for the payment of costs for the special education  
11 of all children in need of special education or special education and related services who reside  
12 within the district pursuant to the provisions of §§ 13-37-8.2 to 13-37-8.10, inclusive. The levy  
13 in this section shall be based on valuations such that the median level of assessment represents  
14 85% of market value as determined by the Department of Revenue. The total amount of taxes



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

5 Section 2. That § 13-37-35.1 be amended to read as follows:

6 13-37-35.1. Terms used in chapter 13-37 mean:

- 7 (1) "Level one disability," a mild disability;
- 8 (2) "Level two disability," cognitive disability or emotional disorder;
- 9 (3) "Level three disability," hearing impairment, deafness, visual impairment, deaf-  
10 blindness, orthopedic impairment, or traumatic brain injury;
- 11 (4) "Level four disability," autism;
- 12 (5) "Level five disability," multiple disabilities;
- 13 (5A) "Level six disability," prolonged assistance;
- 14 (6) "Index factor," is the annual percentage change in the consumer price index for urban  
15 wage earners and clerical workers as computed by the Bureau of Labor Statistics of  
16 the United States Department of Labor for the year before the year immediately  
17 preceding the year of adjustment or three percent, whichever is less;
- 18 (7) "Local effort," shall be calculated for taxes payable in ~~2015~~ 2016 and thereafter using  
19 a special education levy of one dollar and ~~twenty-seven and eight~~ twenty and nine  
20 tenths cents per one thousand dollars of valuation;
- 21 (8) "Allocation for a student with a level one disability," for the school fiscal year  
22 beginning July 1, ~~2014~~ 2015, is ~~\$4,800.57~~ \$4,896.58. For each school year thereafter,  
23 the allocation for a student with a level one disability shall be the previous fiscal  
24 year's allocation for such child increased by the lesser of the index factor or three

1 percent;

2 (9) "Allocation for a student with a level two disability," for the school fiscal year  
3 beginning July 1, ~~2014~~ 2015, is ~~\$11,801.45~~ \$12,037.48. For each school year  
4 thereafter, the allocation for a student with a level two disability shall be the previous  
5 fiscal year's allocation for such child increased by the lesser of the index factor or  
6 three percent;

7 (10) "Allocation for a student with a level three disability," for the school fiscal year  
8 beginning July 1, ~~2014~~ 2015, is ~~\$15,688.59~~ \$16,002.36. For each school year  
9 thereafter, the allocation for a student with a level three disability shall be the  
10 previous fiscal year's allocation for such child increased by the lesser of the index  
11 factor or three percent;

12 (11) "Allocation for a student with a level four disability," for the school fiscal year  
13 beginning July 1, ~~2014~~ 2015, is ~~\$14,008.12~~ \$14,288.28. For each school year  
14 thereafter, the allocation for a student with a level four disability shall be the previous  
15 fiscal year's allocation for such child increased by the lesser of the index factor or  
16 three percent;

17 (12) "Allocation for a student with a level five disability," for the school fiscal year  
18 beginning July 1, ~~2014~~ 2015, is ~~\$21,210.57~~ \$21,634.78. For each school year  
19 thereafter, the allocation for a student with a level five disability shall be the previous  
20 fiscal year's allocation for such child increased by the lesser of the index factor or  
21 three percent;

22 (12A) "Allocation for a student with a level six disability," for the school fiscal year  
23 beginning July 1, ~~2014~~ 2015, is ~~\$7,643.78~~ \$7,796.66. For each school year thereafter,  
24 the allocation for a student with a level six disability shall be the previous fiscal

1 year's allocation for such child increased by the lesser of the index factor or three  
2 percent;

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

7 (14) "Fall enrollment," the number of kindergarten through twelfth grade pupils enrolled  
8 in all schools operated by the school district on the last Friday of September of the  
9 previous school year minus the number of students for whom the district receives  
10 tuition, except any nonresident student who is in the care and custody of a state  
11 agency and is attending a public school and any student for whom tuition is being  
12 paid pursuant to § 13-28-42.1, plus the number of students for whom the district pays  
13 tuition;

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

18 (16) "Nonpublic fall enrollment," ~~until June 30, 2008, the number of children under age~~  
19 ~~sixteen, and beginning July 1, 2009, the number of children under age eighteen, who~~  
20 are approved for alternative instruction pursuant to § 13-27-2 on the last Friday of  
21 September of the previous school year plus:

22 (a) For nonpublic schools located within the boundaries of a public school district  
23 with a fall enrollment of six hundred or more on the last Friday of September  
24 of the previous school year, the number of kindergarten through twelfth grade

1 pupils enrolled on the last Friday of September of the previous regular school  
2 year in all nonpublic schools located within the boundaries of the public  
3 school district;

4 (b) For nonpublic schools located within the boundaries of a public school district  
5 with a fall enrollment of less than six hundred on the last Friday of September  
6 of the previous school year, the number of resident kindergarten through  
7 twelfth grade pupils enrolled on the last Friday of September of the previous  
8 school year in all nonpublic schools located within the State of 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 0.1004 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;

- 1 (f) Multiply the number of students having a level six disability as reported on the  
2 child count for the previous school fiscal year by the allocation for a student  
3 with a level six disability;
- 4 (g) When calculating local need at the statewide level, include the amount set  
5 aside for extraordinary costs defined in § 13-37-40;
- 6 (h) When calculating local need at the statewide level, include the amount set  
7 aside for the South Dakota School for the Blind and Visually Impaired;
- 8 (i) Sum the results of (a) to ~~(g)~~ (h), inclusive;
- 9 (19) "Effort factor," the school district's special education tax levy in dollars per thousand  
10 divided by ~~\$1.278~~ \$1.209. The maximum effort factor is 1.0.