



2020 South Dakota Legislature  
**House Bill 1042**  
**ENROLLED**

AN ACT

**ENTITLED An Act to revise the special education property tax levy for school districts and to revise the state aid to special education formula.**

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

**Section 1.** That § 13-37-16 be AMENDED:

**13-37-16. District tax levy for special education--School district special education fund.**

For taxes payable in 2021, and each year thereafter, the school board shall levy no more than one dollar and sixty-eight and four-tenths 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 shall be spread against all of the taxable property of the district. The proceeds derived from the levy shall 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 §§ 13-37-8.2 to 13-37-8.10, inclusive. The levy in this section shall be based on valuations such that 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 shall be 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 2.** That § 13-37-35.1 be AMENDED:

**13-37-35.1. Definitions.**

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," shall be calculated for taxes payable in 2021 and thereafter using a special education levy of one dollar and forty-eight and four-tenths cents per one thousand dollars of valuation;
- (8) "Allocation for a student with a level one disability," for the school fiscal year beginning July 1, 2020, is \$6,152. For each school year thereafter, the allocation for a student with a level one disability shall be the previous fiscal year's allocation for such child increased by the index factor;
- (9) "Allocation for a student with a level two disability," for the school fiscal year beginning July 1, 2020, is \$14,655. For each school year thereafter, the allocation for a student with a level two disability shall be the previous fiscal year's allocation for such child increased by the index factor;
- (10) "Allocation for a student with a level three disability," for the school fiscal year beginning July 1, 2020, is \$19,194. For each school year thereafter, the allocation for a student with a level three disability shall be the previous fiscal year's allocation for such child increased by the index factor;
- (11) "Allocation for a student with a level four disability," for the school fiscal year beginning July 1, 2020, is \$15,405. For each school year thereafter, the allocation for a student with a level four disability shall be the previous fiscal year's allocation for such child increased by the index factor;
- (12) "Allocation for a student with a level five disability," for the school fiscal year beginning July 1, 2020, is \$32,348. For each school year thereafter, the allocation for a student with a level five disability shall be the previous fiscal year's allocation for such child increased by the index factor;
- (12A) "Allocation for a student with a level six disability," for the school fiscal year beginning July 1, 2020, is \$8,261. For each school year thereafter, the allocation

for a student with a level six disability shall be the previous fiscal year's allocation for such child increased by the index factor;

- (13) "Child count," is the number of students in need of special education or special education and related services according to criteria set forth in rules promulgated pursuant to §§ 13-37-1.1 and 13-37-46 submitted to the Department of Education in accordance with rules promulgated pursuant to § 13-37-1.1;
- (14) "Fall enrollment," the number of kindergarten through twelfth grade students enrolled in all schools operated by the school district on the last Friday of September of the previous school year minus the number of students for whom the district receives tuition, except any nonresident student who is in the care and custody of a state agency and is attending a public school and any student for whom tuition is being paid pursuant to § 13-28-42.1, plus the number of students for whom the district pays tuition;
- (15) "Nonpublic school," a sectarian organization or entity which is accredited by the secretary of education for the purpose of instructing children of compulsory school age. This definition excludes any school that receives a majority of its revenues from public funds;
- (16) "Nonpublic fall enrollment," the number of children under age eighteen, who are approved for alternative instruction pursuant to § 13-27-2 on the last Friday of September of the previous school year plus:
  - (a) For nonpublic schools located within the boundaries of a public school district with a fall enrollment of six hundred or more on the last Friday of September of the previous school year, the number of kindergarten through twelfth grade students enrolled on the last Friday of September of the previous regular school year in all nonpublic schools located within the boundaries of the public school district;
  - (b) For nonpublic schools located within the boundaries of a public school district with a fall enrollment of less than six hundred on the last Friday of September of the previous school year, the number of resident kindergarten through twelfth grade students enrolled on the last Friday of September of the previous school year in all nonpublic schools located within the State of South Dakota;
- (17) "Special education fall enrollment," fall enrollment plus nonpublic fall enrollment;
- (18) "Local need," an amount to be determined as follows:

- (a) Multiply the special education fall enrollment by 0.1 and multiply the result by the allocation for a student with a level one disability;
  - (b) Multiply the number of students having a level two disability as reported on the child count for the previous school fiscal year by the allocation for a student with a level two disability;
  - (c) Multiply the number of students having a level three disability as reported on the child count for the previous school fiscal year by the allocation for a student with a level three disability;
  - (d) Multiply the number of students having a level four disability as reported on the child count for the previous school fiscal year by the allocation for a student with a level four disability;
  - (e) Multiply the number of students having a level five disability as reported on the child count for the previous school fiscal year by the allocation for a student with a level five disability;
  - (f) Multiply the number of students having a level six disability as reported on the child count for the previous school fiscal year by the allocation for a student with a level six disability;
  - (g) When calculating local need at the statewide level, include the amount set aside for extraordinary costs defined in § 13-37-40;
  - (h) When calculating local need at the statewide level, include the amount set aside for the South Dakota School for the Blind and Visually Impaired;
  - (i) Sum the results of (a) to (h), inclusive;
- (19) "Effort factor," the school district's special education tax levy in dollars per thousand divided by \$1.484. The maximum effort factor is 1.0.

An Act to revise the special education property tax levy for school districts and to revise the state aid to special education formula.

\_\_\_\_\_  
I certify that the attached Act originated in  
the:  
House as Bill No. 1042

\_\_\_\_\_  
Received at this Executive Office  
this \_\_\_\_ day of \_\_\_\_\_,  
2020 at \_\_\_\_\_ M.

\_\_\_\_\_  
Chief Clerk

By \_\_\_\_\_  
for the Governor

\_\_\_\_\_  
Speaker of the House

The attached Act is hereby  
approved this \_\_\_\_\_ day of  
\_\_\_\_\_, A.D., 2020

Attest:

\_\_\_\_\_  
Chief Clerk

\_\_\_\_\_  
Governor

**STATE OF SOUTH DAKOTA,**

ss.

Office of the Secretary of State

\_\_\_\_\_  
President of the Senate

Attest:

Filed \_\_\_\_\_, 2020  
at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
Secretary of State

House Bill No. 1042  
File No. \_\_\_\_\_  
Chapter No. \_\_\_\_\_

By \_\_\_\_\_  
Asst. Secretary of State