

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

400P0316

## HOUSE BILL NO. 1045

Introduced by: The Committee on Education at the request of the Department of Education

1 FOR AN ACT ENTITLED, An Act to revise certain provisions related to the calculation of  
2 state aid to special education.

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

4 Section 1. That § 13-37-35.1 be amended to read as follows:

5 13-37-35.1. Terms used in chapter 13-37 mean:

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

7 (2) "Level two disability," ~~a mental retardation~~ cognitive disability or emotional disorder;

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

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

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

12 (5A) "Level six disability," prolonged assistance;

13 (6) "Index factor," is the annual percentage change in the consumer price index for urban  
14 wage earners and clerical workers as computed by the Bureau of Labor Statistics of  
15 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;
- 5 (8) "Allocation for a student with a level one disability," for the school fiscal year  
6 beginning ~~July 1, 2004~~ July 1, 2008, is ~~\$ 3,533.13~~ \$4,057. For each school year  
7 thereafter, the allocation for a student with a level one disability shall be the previous  
8 fiscal year's allocation for such child increased by the lesser of the index factor or  
9 three percent;
- 10 (9) "Allocation for a student with a level two disability," for the school fiscal year  
11 beginning ~~July 1, 2004~~ July 1, 2008, is ~~\$ 8,277.21~~ \$9,471. For each school year  
12 thereafter, the allocation for a student with a level two disability shall be the previous  
13 fiscal year's allocation for such child increased by the lesser of the index factor or  
14 three percent;
- 15 (10) "Allocation for a student with a level three disability," for the school fiscal year  
16 beginning ~~July 1, 2004~~ July 1, 2008, is ~~\$ 12,580.73~~ \$15,220. For each school year  
17 thereafter, the allocation for a student with a level three disability shall be the  
18 previous fiscal year's allocation for such child increased by the lesser of the index  
19 factor or three percent;
- 20 (11) "Allocation for a student with a level four disability," for the school fiscal year  
21 beginning ~~July 1, 2004~~ July 1, 2008, is ~~\$ 12,001.80~~ \$13,164. For each school year  
22 thereafter, the allocation for a student with a level four disability shall be the previous  
23 fiscal year's allocation for such child increased by the lesser of the index factor or  
24 three percent;

1 (12) "Allocation for a student with a level five disability," for the school fiscal year  
2 beginning ~~July 1, 2004~~ July 1, 2008, is ~~\$15,882.21~~ \$16,539. For each school year  
3 thereafter, the allocation for a student with a level five disability shall be the previous  
4 fiscal year's allocation for such child increased by the lesser of the index factor or  
5 three percent;

6 (12A) "Allocation for a student with a level six disability," for the school fiscal year  
7 beginning ~~July 2004~~ July 1, 2008, is ~~\$8,122.23~~ \$8,438. For each school year  
8 thereafter, the allocation for a student with a level six disability shall be the previous  
9 fiscal year's allocation for such child increased by the lesser of the index factor or  
10 three percent;

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

15 (14) "~~Average daily membership~~ Fall enrollment," the average number of kindergarten  
16 through twelfth grade pupils enrolled in all schools operated by the school district  
17 ~~during the previous regular school year plus the average number of pupils for whom~~  
18 ~~the district pays tuition~~ on the last Friday of September of the previous school year  
19 minus the number of students for whom the district receives tuition, except any  
20 nonresident student who is in the care and custody of a state agency and is attending  
21 a public school and any student for whom tuition is being paid pursuant to § 13-28-  
22 42.1, plus the number of students for whom the district pays tuition;

23 (15) "Nonpublic school," a sectarian organization or entity which is accredited by the  
24 secretary of education for the purpose of instructing children of compulsory school

1 age. This definition excludes any school that receives a majority of its revenues from  
2 public funds;

3 (16) "Nonpublic ~~average daily membership~~ fall enrollment," ~~until June 30, 2008, the~~  
4 ~~average~~ number of children under age sixteen, ~~and beginning July 1, 2009, the~~  
5 ~~number of children under age eighteen~~, who are approved for alternative instruction  
6 pursuant to § 13-27-2 ~~during the previous school year~~ on the last Friday of September  
7 of the previous school year plus:

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

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

20 (17) "Special education ~~average daily membership~~ fall enrollment," ~~average daily~~  
21 ~~membership~~ fall enrollment plus nonpublic ~~average daily membership~~ fall  
22 enrollment;

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

24 (a) Multiply the special education ~~average daily membership~~ fall enrollment by

1                   ~~0.1013~~ 0.1062 and multiply the result by the allocation for a student with a  
2                   level one disability;

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

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

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

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

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

18                  (g) Sum the results of (a) through (f);

19                  (19) "Effort factor," the school district's special education tax levy in dollars per thousand  
20                  divided by \$1.20. The maximum effort factor is 1.0.