



# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

519P0019

## HOUSE STATE AFFAIRS ENGROSSED NO. **HB** **1005** - 1/28/2008

**This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.**

Introduced by: Representatives Rhoden, Boomgarden, Dennert, Juhnke, Noem, Sigdestad, and Vanneman and Senators Knudson, Hansen (Tom), Lintz, and Peterson (Jim) at the request of the Interim Property Tax Assessment Study Committee

1 FOR AN ACT ENTITLED, An Act to revise certain provisions concerning the assessment of  
2 real property, to assess agricultural land based on its agricultural income value, to create an  
3 implementation and oversight advisory task force, to repeal certain provisions regarding the  
4 assessment of property, and to repeal the nonagricultural acreage classification.

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

6 Section 1. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as  
7 follows:

8 Notwithstanding the provisions of § 10-6-74, if any nonagricultural or owner-occupied  
9 property sells for more than one hundred fifty percent of its assessed value after November 1,  
10 2008, the sale of such property shall be used to value other real property if the sale is an arms-  
11 length transaction. However, for the taxable valuation for the taxes payable in 2011, 2012, 2013,  
12 2014, and 2015, no nonagricultural or owner-occupied property's valuation may increase more  
13 than five percent per year because of such sales. The sales of nonagricultural and owner-



1 occupied property may only be used in a sales ratio study as allowed by this section.

2 Section 2. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as  
3 follows:

4 For the taxes payable in 2011, 2012, and 2013, the total taxable value of agricultural land  
5 within any county may not increase more than fifteen percent in any year.

6 Section 3. That sections 1 and 2 of this Act be repealed on July 1, 2015.

7 Section 4. That § 10-6-74 be repealed on July 1, 2014.

8 Section 5. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as  
9 follows:

10 Notwithstanding the provisions of § 10-6-33, beginning on July 1, 2009, agricultural land  
11 shall be assessed based on its agricultural income value on a per acre basis. The agricultural  
12 income value of agricultural land shall be determined on the basis of productivity and the annual  
13 earnings capacity of the agricultural land. The productivity of agricultural land and its annual  
14 earning capacity shall be based on data collected and analyzed pursuant to sections 5 to 10,  
15 inclusive, of this Act.

16 Agricultural income value is defined as the capitalized average annual earning capacity on  
17 a per acre basis which has been adjusted by an amount that reflects the landowner's share of the  
18 gross return. The capacity of cropland to produce agricultural products shall be based on the  
19 income from crops or plants produced on the land. The capacity of noncropland to produce  
20 agricultural products shall be based on the animal unit carrying capacity of the land. For the  
21 purpose of this section, annual earning capacity for:

- 22 (1) Cropland is twenty-four percent of the annual gross income capacity of the land; and  
23 (2) Noncropland is twenty-five percent of the annual gross income capacity of the land.

24 The annual earning capacity shall be capitalized at a rate of six percent to determine the

1 agricultural income value.

2 Section 6. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as  
3 follows:

4 The secretary of revenue and regulation shall enter into contracts with South Dakota State  
5 University and, if necessary, the South Dakota Agricultural Statistics Service for the purpose  
6 of creating a database to determine the agricultural income value of agricultural land by county.

7 The cropland data shall include: acres planted, acres harvested, yield per acre, and locally  
8 adjusted crop prices. Locally adjusted crop prices shall be established by adjusting statewide  
9 prices. The noncropland data shall include: rangeland acres, pastureland acres, rangeland AUM's  
10 per acre, pastureland AUM's per acre, grazing season data, and statewide cow and calf prices.

11 The secretary shall have such data collected for 2001, which will serve as the first year of the  
12 database, and each year thereafter. The database shall consist of the most recent eight years of  
13 data that have been collected and the two years, one year representing the highest agricultural  
14 income value and one year representing the lowest agricultural income value, shall be discarded  
15 from the database. The database for the 2010 assessment for taxes payable in 2011 shall consist  
16 of data from 2001 to 2008, inclusive, and the database for each assessment year thereafter shall  
17 be adjusted accordingly. The economics department shall provide the data for each county to  
18 the secretary of revenue and regulation by June first of each year.

19 Section 7. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as  
20 follows:

21 The economics department of South Dakota State University shall submit recommendations  
22 to the Agricultural Land Assessment Implementation and Oversight Advisory Task Force by  
23 November 1, 2008, regarding factors to use for the percentage of annual earning capacity to be  
24 used to determine the agricultural income value of the land pursuant to section 5 of this Act and

1 other provisions used to assess agricultural land that will provide the least amount of shift  
2 between cropland and noncropland on a statewide basis. Thereafter, the economics department  
3 shall submit such recommendations, if any, to the task force by September first of each year.

4 Section 8. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 Before July first each year, the secretary of revenue and regulation shall annually provide  
7 each director of equalization the agricultural income value for each county as computed  
8 pursuant to section 5 of this Act. The director of equalization shall annually determine the  
9 assessed value of agricultural land. The assessed value of agricultural land may be adjusted by  
10 the following factors:

- 11 (1) The capacity of the land to produce agricultural products as defined in § 10-6-33.2;
- 12 and
- 13 (2) The location, size, soil survey statistics, terrain, and topographical condition of the
- 14 land including the climate, accessibility, and surface obstructions which can be
- 15 documented.

16 Section 9. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as  
17 follows:

18 Agricultural land shall be divided by the director of equalization into categories, including  
19 cropland and noncropland. Each category shall be divided into classes based on soil  
20 classification standards developed by the United States Department of Agriculture Natural  
21 Resources Conservation Service.

22 Section 10. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as  
23 follows:

24 Buildings and structures, other than normally occupied dwellings on agricultural land and

1 automobile garages or portions of buildings used as automobile garages, which are used  
2 exclusively for agricultural purposes and situated on agricultural land, are hereby specifically  
3 classified for tax purposes as agricultural property and shall be assessed as similar  
4 nonagricultural property.

5 Section 11. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as  
6 follows:

7 The agricultural income value for agricultural land as determined by sections 5 to 10,  
8 inclusive, of this Act represents the market value of agricultural land, and the Department of  
9 Revenue and Regulation shall provide the director of equalization of each county the factor of  
10 adjustment necessary for the computation required pursuant to §§ 10-3-41, 10-12-31.1,  
11 10-12-42, and 10-13-37.

12 Section 12. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as  
13 follows:

14 There is hereby established the Agricultural Land Assessment Implementation and Oversight  
15 Advisory Task Force. The task force shall consist of the following twelve members:

16 (1) The speaker of the House of Representatives shall appoint four members of the  
17 House of Representatives, no more than two of whom may be from one political  
18 party;

19 (2) The speaker of the House of Representatives shall appoint two members of the  
20 general public;

21 (3) The president pro tempore of the Senate shall appoint four members of the Senate,  
22 no more than two of whom may be from one political party; and

23 (4) The president pro tempore of the Senate shall appoint two members of the general  
24 public.

1 The initial appointments shall be made no later than July 1, 2008, and shall serve until  
2 January 12, 2009. The speaker of the House of Representatives and president pro tempore of the  
3 Senate before the close of each regular session of the Legislature held in odd-numbered years  
4 shall appoint members to the task force for a term of two years. If there is a vacancy on the task  
5 force, the vacancy shall be filled in the same manner as the original appointment.

6 The task force shall advise the department regarding the rules promulgated by the  
7 department to administer the provisions concerning the assessment and taxation of agricultural  
8 lands and shall review the implementation of the provisions of law concerning the assessment  
9 and taxation of agricultural land. The task force shall report to the Senate and House of  
10 Representatives and may submit a copy of its report to the Governor. The task force may present  
11 draft legislation and policy recommendations to the Legislative Research Council Executive  
12 Board.

13 The task force shall make recommendations in the following areas:

- 14 (1) The proper percentage of annual earning capacity to be used to determine the  
15 agricultural income value for subdivisions (1) and (2) of section 5 of this Act; and
- 16 (2) The proper capitalization rate in order to have total taxable valuation for the taxes  
17 payable in 2011 from agricultural property be not more than total taxable valuation  
18 for the taxes payable in 2010 from agricultural property plus the estimated growth in  
19 agricultural property value in 2010.

20 Section 13. That § 10-6-33.13 be amended to read as follows:

21 10-6-33.13. The secretary of revenue and regulation may promulgate rules pursuant to  
22 chapter 1-26 concerning the:

- 23 (1) Collection and tabulation of information required to determine median appraisal or  
24 sales assessment ratio, and coefficient of dispersion;

- 1 (2) Criteria to be included in a compliance audit of assessment practices; ~~and~~
- 2 (3) Conditions under which a certificate of compliance may be issued to a county;
- 3 (4) Procedures for determining the valuation of agricultural buildings and structures;
- 4 (5) Procedures for determining the valuation of dwellings on agricultural land and
- 5 automobile garages or portions of buildings used as automobile garages;
- 6 (6) Application of cropland and noncropland income values;
- 7 (7) Application of soil classification standards; and
- 8 (8) Procedures for making adjustments to the value of agricultural land pursuant to
- 9 sections 5 to 10, inclusive, of this Act.

10 Before the secretary promulgates any rules pursuant to subdivision (4) to (8), inclusive, the  
 11 secretary shall present the proposed rules to the Agricultural Land Assessment Implementation  
 12 and Oversight Advisory Task Force established pursuant to section 12 of this Act.

13 Section 14. That § 10-12-31.1 be amended to read as follows:

14 10-12-31.1. Notwithstanding other provision of law, when applying the levies for school  
 15 purposes, the county director of equalization of each county shall adjust the level of assessment  
 16 in that district so that the level of assessment as indicated by the most recent assessment to sales  
 17 ratio as provided for in § 10-11-55 and the most recent ~~assessment to full agricultural land value~~  
 18 ~~ratio~~ agricultural income value as provided for in ~~§ 10-11-57~~ sections 5 to 10, inclusive, of this  
 19 Act in that district are equal to eighty-five percent of market value or agricultural income value.

20 The Department of Revenue and Regulation shall provide the director of equalization of each  
 21 county all of the factors of adjustment necessary for the computations required in this section.

22 Section 15. That § 10-6-33.3 be amended to read as follows:

23 10-6-33.3. Land or improvement on land within an operating unit which is not used incident  
 24 to an agricultural pursuit shall be separately listed and assessed ~~and the income therefrom shall~~

1 ~~not be used in determining the values for the purposes of §§ 10-6-33.1 and 10-6-33.2.~~

2 Section 16. That § 10-6-33.5 be amended to read as follows:

3 10-6-33.5. The assessment, valuation, equalization, and taxation of school and endowment  
4 lands shall be at the same level and on the same basis as lands assessed, valued, and equalized  
5 according to §§ ~~10-6-33.1 to 10-6-33.4, inclusive~~ sections 5 to 10, inclusive, of this Act.

6 Section 17. That § 10-6-33.7 be amended to read as follows:

7 10-6-33.7. Agricultural land in each county shall be divided into the eight classes defined  
8 by the United States Department of Agriculture's soil conservation service as published in its  
9 soil survey for each county. The county director of equalization shall, based on the agricultural  
10 lands soil survey classification, determine a value for each soil type. ~~The value for each soil type~~  
11 ~~shall be determined from sales of similar land based upon its soil survey classification, and as~~  
12 ~~adjusted for the factors contained in subdivision 10-6-33.1(2). The sales used shall be sales of~~  
13 ~~agricultural land that are sold for agricultural purposes.~~

14 Section 18. That § 10-6-31.3 be amended to read as follows:

15 10-6-31.3. For tax purposes, land is agricultural land if it meets two of the following three  
16 criteria:

- 17 (1) At least thirty-three and one-third percent of the total family gross income of the  
18 owner is derived from the pursuit of agriculture as defined in subdivision (2) of this  
19 section or it is a state-owned public shooting area or a state-owned game production  
20 area as identified in § 41-4-8 and it is owned and managed by the Department of  
21 Game, Fish and Parks;
- 22 (2) Its principal use is devoted to the raising and harvesting of crops or timber or fruit  
23 trees, the rearing, feeding, and management of farm livestock, poultry, fish, or  
24 nursery stock, the production of bees and apiary products, or horticulture, all for

1 intended profit pursuant to subdivision (1) of this section. Agricultural real estate also  
 2 includes woodland, wasteland, and pasture land, but only if the land is held and  
 3 operated in conjunction with agricultural real estate as defined and it is under the  
 4 same ownership;

5 (3) It consists of not less than twenty acres of unplatted land or is a part of a contiguous  
 6 ownership of not less than eighty acres of unplatted land. The same acreage  
 7 specifications apply to platted land, excluding land platted as a subdivision, which  
 8 is in an unincorporated area. However, the board of county commissioners may  
 9 increase the minimum acre requirement up to one hundred sixty acres.

10 ~~However, for tax purposes, land is not agricultural land if the land is classified pursuant to~~  
 11 ~~§ 10-6-33.14 as a nonagricultural acreage.~~

12 Section 19. That § 10-13-37.1 be amended to read as follows:

13 10-13-37.1. For purposes of ~~§ 10-6-33.24 and~~ §§ 10-3-41, 10-12-31.1, and 10-13-37, the  
 14 secretary of revenue and regulation shall calculate a factor for each county for the agricultural  
 15 ~~and~~ nonagricultural valuations. The factor shall be calculated by using the sales of arms-length  
 16 transactions and the assessments from the preceding assessment year. The secretary shall take  
 17 into consideration any reappraisals completed by the director of equalization. If there are less  
 18 fewer than fifteen sales of either class, the secretary shall use the preceding year's sales of that  
 19 class with current assessments. ~~In the case of agricultural land, sales may also be bridged in~~  
 20 ~~from adjoining counties if there are less than fifteen sales.~~

21 Section 20. That § 13-11-10 be amended to read as follows:

22 13-11-10. In implementing the terms of § 13-11-9, a separate weighted average tax levy of  
 23 the receiving districts shall be calculated for agricultural property, ~~nonagricultural acreage~~  
 24 ~~property~~, owner-occupied single-family dwelling property, and for nonagricultural property for

1 each sending school district as follows:

2 (1) The levy per thousand dollars of taxable valuation for agricultural property for each  
3 receiving school district shall be multiplied by the number of children from the  
4 sending school district to whom the receiving school district is providing educational  
5 services;

6 (2) Add together the products from subdivision (1) for each receiving school district;

7 (3) Divide the sum from subdivision (2) by the total number of students that the  
8 contracting school district is sending to the receiving school districts pursuant to  
9 § 13-15-1.3. The quotient is the weighted average tax levy per one thousand dollars  
10 of taxable valuation for agricultural property;

11 (4) The weighted average tax levy per thousand dollars of taxable valuation for  
12 ~~nonagricultural acreage~~, owner-occupied single-family dwellings, and nonagricultural  
13 property shall be obtained by repeating the procedure outlined in subdivisions (1) to  
14 (3), inclusive, for each class of property; and

15 (5) The sum of the levies assessed for all funds in the sending district shall be equal to  
16 or greater than the sum of all levies for all funds in the receiving district.

17 The above calculations do not include students receiving educational services from an  
18 out-of-state school district nor the tax levy of any out-of-state school district.

19 Section 21. That § 10-12-42 be amended to read as follows:

20 10-12-42. For taxes payable in ~~2008~~ 2011 and each year thereafter, the levy for the general  
21 fund of a school district shall be as follows:

22 (1) The maximum tax levy shall be nine dollars and eleven cents per thousand dollars of  
23 taxable valuation subject to the limitations on agricultural property as provided in  
24 subdivision (2) of this section, and owner-occupied property as provided for in

1 subdivision (3) of this section, ~~and nonagricultural acreage property as provided for~~  
2 ~~in subdivision (4) of this section;~~

3 (2) The maximum tax levy on agricultural property for such school district shall be two  
4 dollars and seventy-one cents per thousand dollars of taxable valuation. If the  
5 district's levies are less than the maximum levies as stated in this section, the levies  
6 shall maintain the same proportion to each other as represented in the mathematical  
7 relationship at the maximum levies; and

8 (3) The maximum tax levy for an owner-occupied single-family dwelling as defined in  
9 § 10-13-40, for such school district may not exceed four dollars and twenty-six cents  
10 per thousand dollars of taxable valuation. If the district's levies are less than the  
11 maximum levies as stated in this section, the levies shall maintain the same  
12 proportion to each other as represented in the mathematical relationship at the  
13 maximum levies; ~~and~~

14 ~~(4) The maximum tax levy on nonagricultural acreage property as defined in § 10-6-~~  
15 ~~33.14, for such school district shall be three dollars and seventy-one cents per~~  
16 ~~thousand dollars of taxable valuation. If the district's levies are less than the~~  
17 ~~maximum levies as stated in this section, the levies shall maintain the same~~  
18 ~~proportion to each other as represented in the mathematical relationship at the~~  
19 ~~maximum levies.~~

20 All levies in this section shall be imposed on valuations where the median level of  
21 assessment represents eighty-five percent of market value as determined by the Department of  
22 Revenue and Regulation. These valuations shall be used for all school funding purposes. If the  
23 district has imposed an excess levy pursuant to § 10-12-43, the levies shall maintain the same  
24 proportion to each other as represented in the mathematical relationship at the maximum levies

1 in this section. The school district may elect to tax at less than the maximum amounts set forth  
2 in this section.

3 Section 22. That § 10-6-33.25 be amended to read as follows:

4 10-6-33.25. For the purposes of § 10-6-33.24, the agricultural income value shall be  
5 determined using capitalized annual cash rent. The annual cash rent is the annual cash rent,  
6 excluding the per acre tax on agricultural land, determined through an analysis of arms-length  
7 rental agreements collected within the county in the three years prior to the year for which the  
8 agricultural income value is being determined. The agricultural income value of cropland shall  
9 be based on average rents over a three-year period for cropland under natural conditions. The  
10 agricultural income value of noncropland shall be based on average rents over a three-year  
11 period for noncropland under natural conditions. However, no arms-length rental agreements  
12 for irrigated land may be used to determine the annual cash rent pursuant to this section. The  
13 annual cash rent shall be capitalized at ~~seven and three-fourths~~ six and fifteen hundredths  
14 percent.

15 The secretary of revenue and regulation may enter into a contract for the collection of cash  
16 rent information by county. Cash rent information shall be adjusted by soil survey statistics, if  
17 available, and pursuant to § 10-6-33.26.

18 Section 23. That §§ 10-6-33.1, 10-6-33.4, 10-6-33.6, §§ 10-6-33.14 to 10-6-33.20, inclusive,  
19 and §§ 10-6-33.23 to 10-6-33.27, inclusive, be repealed.

20 Section 24. That sections 14 to 21, inclusive, and section 23 are effective on July 1, 2009.

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

258P0045

## HOUSE STATE AFFAIRS ENGROSSED NO. **HB** **1006** - 1/28/2008

Introduced by: Representatives Rhoden, Boomgarden, Dennert, Juhnke, Noem, Sigdestad, and Vanneman and Senators Knudson, Hansen (Tom), Lintz, and Peterson (Jim) at the request of the Interim Property Tax Assessment Study Committee

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 shall also be annually adjusted as necessary to reduce  
10 the portion of local need paid by local effort by an amount equal to nine million dollars from  
11 those funds transferred into the property tax reduction fund pursuant to § 10-50-52 subsequent  
12 to July 1, 2007. In addition to the adjustments in the levies provided by this section, the levies  
13 for nonagricultural property and owner-occupied single-family dwellings shall also be adjusted



1 as necessary to account for the additional increase in the total assessed value for nonagricultural  
2 property and owner-occupied single-family dwellings pursuant to the phasing out and repeal of  
3 the provisions provided in § 10-6-74.

4 Section 2. That § 13-10-6 be amended to read as follows:

5 13-10-6. For the purpose of continuing a fund for the payment of pensions to retired  
6 employees of ~~a school districts which shall have~~ district that has established such system, ~~such~~  
7 ~~districts~~ the school district may levy an annual tax not exceeding thirty cents per thousand  
8 dollars of taxable valuation of ~~such~~ the school district for the current year. ~~Such~~ The levy may  
9 not be included in determining the tax levy limitation of ~~such~~ the school district provided by  
10 law. Moneys collected from ~~such~~ the tax shall be kept by the business manager in a special  
11 pension fund and ~~shall~~ may not be used for any other purpose except upon discontinuance of  
12 ~~such~~ the pension system by the school district, in which case any unexpended balance shall be  
13 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  
16 in § 10-13-38, over the maximum amount of revenue that could have been generated for the  
17 taxes payable in 2010. 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 For taxes payable in 2012, 2013, 2014, and 2015, the total amount of revenue payable from  
24 the levy provided in this section may not increase more than the lesser of three percent or the

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

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

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

13 Section 3. 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  
17 or for its obligations under a resolution, lease-purchase agreement, capital outlay certificate, or  
18 other arrangement with the Health and Educational Facilities Authority. Taxes collected  
19 pursuant to such levy may be irrevocably pledged by the school board to the payment of  
20 principal of and interest on installment purchase contracts or capital outlay certificates entered  
21 into or issued pursuant to § 13-16-6 or 13-16-6.2 or lease-purchase agreements or other  
22 arrangement with the Health and Educational Facilities Authority and, so long as any capital  
23 outlay certificates are outstanding, installment agreement payments, lease-purchase agreements,  
24 or other arrangements are unpaid, the school board of any district may be compelled by

1 mandamus or other appropriate remedy to levy an annual tax sufficient to pay principal and  
2 interest thereon, but not to exceed the three dollars per thousand dollars of taxable valuation in  
3 any year authorized to be levied hereby.

4 For taxes payable in 2011, the total amount of revenue payable from the levy provided in  
5 this section may not increase more than the lesser of three percent or the index factor, as defined  
6 in § 10-13-38, over the maximum amount of revenue that could have been generated for the  
7 taxes payable in 2010. After applying the index factor, a school district may increase the revenue  
8 payable from taxes on real property above the limitations provided by this section by the  
9 percentage increase of value resulting from any improvements or change in use of real property,  
10 annexation, minor boundary changes, and any adjustments in taxation of real property separately  
11 classified and subject to statutory adjustments and reductions under chapters 10-4, 10-6, 10-6A,  
12 and 10-6B, except § 10-6-31.4, only if assessed the same as property of equal value. A school  
13 district may increase the revenue it receives from taxes on real property above the limit provided  
14 by this section for taxes levied to pay the principal, interest, and redemption charges on any  
15 bonds issued after January 1, 2009, which are subject to referendum; for scheduled payment  
16 increases on bonds, and for a levy directed by the order of a court for the purpose of paying a  
17 judgment against the school district. Any school district created or reorganized after January 1,  
18 2009, is exempt from the limitation provided by this section for a period of two years  
19 immediately following its creation.

20 For taxes payable in 2012, 2013, 2014, and 2015, the total amount of revenue payable from  
21 the levy provided in this section may not increase more than the lesser of three percent or the  
22 index factor, as defined in § 10-13-38, over the maximum amount of revenue that could have  
23 been generated for the taxes payable in 2010 plus any unused index factor from the previous  
24 years. After applying the index factor, a school district may increase the revenue payable from

1 taxes on real property above the limitations provided by this section by the percentage increase  
2 of value resulting from any improvements or change in use of real property, annexation, minor  
3 boundary changes, and any adjustments in taxation of real property separately classified and  
4 subject to statutory adjustments and reductions under chapters 10-4, 10-6, 10-6A, and 10-6B,  
5 except § 10-6-31.4, only if assessed the same as property of equal value. A school district may  
6 increase the revenue it receives from taxes on real property above the limit provided by this  
7 section for taxes levied to pay the principal, interest, and redemption charges on any bonds  
8 issued after January 1, 2009, which are subject to referendum, scheduled payment increases on  
9 bonds and for a levy directed by the order of a court for the purpose of paying a judgment  
10 against such school district. Any school district created or reorganized after January 1, 2009, is  
11 exempt from the limitation provided by this section for a period of two years immediately  
12 following its creation.

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

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

16 13-37-16. For taxes payable in 1997, and each year thereafter, the school board shall levy  
17 no more than one dollar and forty cents per thousand dollars of taxable valuation, as a special  
18 levy in addition to all other levies authorized by law for the amount so determined to be  
19 necessary, and such levy shall be spread against all of the taxable property of the district. The  
20 proceeds derived from such levy shall constitute a school district special education fund of the  
21 district for the payment of costs for the special education of all children in need of special  
22 education or special education and related services who reside within the district pursuant to the  
23 provisions of §§ 13-37-8.2 to 13-37-8.10, inclusive. The levy in this section shall be based on  
24 valuations such that the median level of assessment represents 85% of market value as

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

6 For taxes payable in 2011, the total amount of revenue payable from the levy provided in  
7 this section may not increase more than the lesser of three percent or the index factor, as defined  
8 in § 10-13-38, over the maximum amount of revenue that could have been generated for the  
9 taxes payable in 2010. After applying the index factor, a school district may increase the revenue  
10 payable from taxes on real property above the limitations provided by this section by the  
11 percentage increase of value resulting from any improvements or change in use of real property,  
12 annexation, minor boundary changes, and any adjustments in taxation of real property separately  
13 classified and subject to statutory adjustments and reductions under chapters 10-4, 10-6, 10-6A,  
14 and 10-6B, except § 10-6-31.4, only if assessed the same as property of equal value.

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

17 For taxes payable in 2012, 2013, 2014, and 2015, the total amount of revenue payable from  
18 the levy provided in this section may not increase more than the lesser of three percent or the  
19 index factor, as defined in § 10-13-38, over the maximum amount of revenue that could have  
20 been generated for the taxes payable in 2010 plus any unused index factor from the previous  
21 years. After applying the index factor, a school district may increase the revenue payable from  
22 taxes on real property above the limitations provided by this section by the percentage increase  
23 of value resulting from any improvements or change in use of real property, annexation, minor  
24 boundary changes, and any adjustments in taxation of real property separately classified and

1 subject to statutory adjustments and reductions under chapters 10-4, 10-6, 10-6A, and 10-6B,  
2 except § 10-6-31.4, only if assessed the same as property of equal value.

3 For taxes payable in 2011, 2012, 2013, 2014, and 2015, the levy limitation of one dollar and  
4 forty cents per thousand dollars of taxable valuation does not apply to any school district.

5 Section 5. 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," a mental retardation 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 2006 and thereafter using a  
19 ~~special education levy of one dollar and twenty cents per one thousand dollars of~~  
20 ~~valuation~~ 2011 and shall be the amount of revenue that could have been generated  
21 for the taxes payable in 2010 using a special education levy of one dollar and twenty  
22 cents per one thousand dollars of valuation increased by the lesser of three percent  
23 or the index factor, as defined in § 10-13-38, plus a percentage increase of value  
24 resulting from any improvements or change in use of real property, annexation, minor

1 boundary changes, and any adjustments in taxation of real property separately  
2 classified and subject to statutory adjustments and reductions under chapters 10-4,  
3 10-6, 10-6A, and 10-6B, except § 10-6-31.4, only if assessed the same as property  
4 of equal value.

5 For taxes payable in 2012, 2013, 2014, and 2015, the total amount of local effort  
6 shall be increased by the lesser of three percent or the index factor, established  
7 pursuant to § 10-13-38 plus a percentage increase of value resulting from any  
8 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 (8) "Allocation for a student with a level one disability," for the school fiscal year  
13 beginning July 1, 2004, is \$ 3,533.13. For each school year thereafter, the allocation  
14 for a student with a level one disability shall be the previous fiscal year's allocation  
15 for such child increased by the lesser of the index factor or three percent;

16 (9) "Allocation for a student with a level two disability," for the school fiscal year  
17 beginning July 1, 2004, is \$ 8,277.21. For each school year thereafter, the allocation  
18 for a student with a level two disability shall be the previous fiscal year's allocation  
19 for such child increased by the lesser of the index factor or three percent;

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

24 (11) "Allocation for a student with a level four disability," for the school fiscal year

1 beginning July 1, 2004, is \$ 12, 001.80. For each school year thereafter, the allocation  
2 for a student with a level four disability shall be the previous fiscal year's allocation  
3 for such child increased by the lesser of the index factor or three percent;

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

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

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

16 (14) "Average daily membership," the average number of kindergarten through twelfth  
17 grade pupils enrolled in all schools operated by the school district during the previous  
18 regular school year plus the average number of pupils for whom the district pays  
19 tuition;

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

24 (16) "Nonpublic average daily membership," the average number of children under age

1 sixteen who are approved for alternative instruction pursuant to § 13-27-2 during the  
2 previous school year plus:

3 (a) For nonpublic schools located within the boundaries of a public school district  
4 with an average daily membership of six hundred or more during the previous  
5 school year, the average number of kindergarten through twelfth grade pupils  
6 enrolled during the previous regular school year in all nonpublic schools  
7 located within the boundaries of the public school district;

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

13 (17) "Special education average daily membership," average daily membership plus  
14 nonpublic average daily membership;

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

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

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

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

24 (d) Multiply the number of students having a level four disability as reported on

1 the child count for the previous school fiscal year by the allocation for a  
2 student with a level four disability;

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

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

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

10 (19) "Effort factor," ~~the school district's special education tax levy in dollars per thousand~~  
11 ~~divided by \$1.20 for taxes payable in 2011, 2012, 2013, 2014, and 2015, the effort~~  
12 factor is the amount of taxes payable for the year divided by the amount of local  
13 effort as calculated in subdivision (7). The maximum effort factor is 1.0.

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

680P0614

## HOUSE TRANSPORTATION ENGROSSED NO. **HB** **1264** - 1/29/2008

Introduced by: Representatives Jerke, Elliott, Faehn, Howie, Kirkeby, Lust, Miles, Moore, Olson (Betty), and Sigdestad and Senators Napoli, Albers, Garnos, Hauge, McCracken, and Sutton

1 FOR AN ACT ENTITLED, An Act to permit certain persons with insulin-treated diabetes  
2 mellitus to get an endorsement on a commercial driver license to drive a school bus.

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

4 Section 1. That chapter 32-12A be amended by adding thereto a NEW SECTION to read  
5 as follows:

6 Any person with insulin-treated diabetes mellitus, who is otherwise medically qualified  
7 under the physical examination standards of the federal motor carrier safety regulations, as  
8 provided by § 32-12A-24, may request a waiver for this condition from the department. If an  
9 applicant for an intrastate school bus endorsement meets the requirements as specified in  
10 subdivisions (1) to (7), inclusive, of this section, the department shall grant a waiver. The  
11 department shall notify each applicant and each affected school district or private contractor of  
12 its determination of eligibility for each application for a waiver. An applicant shall:

13 (1) Provide evidence, signed by a physician, physician assistant, or nurse practitioner that



1 the applicant has no other disqualifying conditions including diabetes-related  
2 complications;

3 (2) Provide evidence, signed by a physician, physician assistant, or nurse practitioner that  
4 the applicant has had no recurrent severe hypoglycemic episodes resulting in a loss  
5 of consciousness or any severe hypoglycemic episode within the past five years. A  
6 period of one year of demonstrated stability is required following the first episode of  
7 hypoglycemia;

8 (3) Provide evidence, signed by a physician, physician assistant, or nurse practitioner that  
9 the applicant has had no recurrent severe hypoglycemic episodes requiring the  
10 assistance of another person within the past five years. A period of one year of  
11 demonstrated stability is required following the first episode of hypoglycemia;

12 (4) Provide evidence, signed by a physician, physician assistant, or nurse practitioner that  
13 the applicant has had no recurrent severe hypoglycemic episodes resulting in  
14 impaired cognitive functioning that occurred without warning symptoms within the  
15 past five years. A period of one year of demonstrated stability is required following  
16 the first episode of hypoglycemia;

17 (5) Document that the applicant has been examined by a board-certified or board-eligible  
18 physician, a physician assistant, or a nurse practitioner who has conducted a complete  
19 medical examination. The complete medical examination shall consist of a  
20 comprehensive evaluation of the applicant's medical history and current status with  
21 a report including the following information:

22 (a) The date insulin use began;

23 (b) Diabetes diagnosis and disease history;

24 (c) Hospitalization records, if any;

- 1 (d) Consultation notes for diagnostic examinations;
- 2 (e) Special studies pertaining to the diabetes;
- 3 (f) Follow-up reports;
- 4 (g) Reports of any severe hypoglycemic episode within the last five years;
- 5 (h) Two measures of glycosylated hemoglobin, the first ninety days before the last
- 6 and current measure;
- 7 (i) Insulin dosages and types, diet utilized for control and any significant factors
- 8 such as smoking, alcohol use, and any other medications or drugs taken; and
- 9 (j) Examinations to detect any peripheral neuropathy or circulatory insufficiency
- 10 of the extremities;
- 11 (6) Submit a signed statement from an examining physician indicating the following
- 12 medical determinations:
  - 13 (a) The physician is familiar with the applicant's medical history for the past five
  - 14 years, either through actual treatment over that time or through consultation
  - 15 with a physician who has treated the applicant through that time;
  - 16 (b) The applicant has been educated in diabetes and its management, thoroughly
  - 17 informed of and understands the procedures that must be followed to monitor
  - 18 and manage the applicant's diabetes and the procedures to be followed if
  - 19 complications arise; and
  - 20 (c) The applicants has the ability and has demonstrated the willingness to properly
  - 21 monitor and manage the applicant's diabetes; and
- 22 (7) Submit a separate signed statement from an ophthalmologist or optometrist that the
- 23 applicant has been examined and does not have diabetic retinopathy and meets the
- 24 vision standards in 49 CFR 391.41 (b)(10), as amended through January 1, 2007, or

1           has been issued a valid medical exemption. If the applicant has any evidence of  
2           diabetic retinopathy, the applicant shall be examined by an ophthalmologist and  
3           submit a signed statement from the ophthalmologist that the applicant does not have  
4           unstable advancing disease of blood vessels in the retina, known as unstable  
5           proliferative diabetic retinopathy.

6           Each school bus driver that is granted a waiver for insulin-treated diabetes mellitus issued  
7           by the department shall maintain the waiver in the driver's possession at all times.

8           The department shall promulgate rules, pursuant to chapter 1-26, necessary for the  
9           determination of eligibility and issuance of a waiver to persons with insulin-treated diabetes  
10          mellitus in accordance with the provisions of this section.

11          A waiver granted under this section may be issued for a maximum of two years. The driver  
12          may reapply for renewal of the waiver every two years.

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

497P0732

## HOUSE EDUCATION ENGROSSED NO. **HB 1303** - 1/29/2008

Introduced by: Representatives Van Norman, Ahlers, Bradford, Burg, DeVries, Elliott, Engels, Feinstein, Gillespie, Halverson, Hills, Lucas, Nygaard, Sigdestad, Street, and Thompson and Senators Maher, Bartling, Heidepriem, Hoerth, Hundstad, Kloucek, Nesselhuf, Turbak Berry, and Two Bulls

1 FOR AN ACT ENTITLED, An Act to require the South Dakota State Library to deliver services  
2 and materials to residents in remote areas of the state, and to deliver those services and  
3 materials free of charge.

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

5 Section 1. That § 14-1-44 be amended to read as follows:

6 14-1-44. The State Library Office shall be responsible for executing the library policy of the  
7 State of South Dakota and shall:

8 (1) Promote adequate library service for all the people of the state;

9 (2) Supplement the services of libraries throughout the state;

10 (3) Deliver services and materials directly to those persons in remote areas of the state  
11 who have inadequate or no public library service, and deliver those services and  
12 materials at no charge;

13 ~~(3)~~(4) Increase the proficiency of library personnel through provision of in-service and



- 1 continuing education programs for library personnel employed in the state;
- 2 ~~(4)~~(5) Provide for the citizens of the state specialized library services and materials not
- 3 generally appropriate, economical, or available in other libraries of the state;
- 4 ~~(5)~~(6) Coordinate the libraries maintained by the executive department of state government
- 5 within the governmental complex in Pierre;
- 6 ~~(6)~~(7) Establish and operate a state publications library distribution center; and
- 7 ~~(7)~~(8) Collect and publish annual statistical data of libraries in the state.

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

400P0149

## SENATE ENGROSSED NO. **SB 2** - 1/16/2008

Introduced by: The Committee on Local Government at the request of the Office of the  
Secretary of State

1 FOR AN ACT ENTITLED, An Act to prohibit public access to birth dates of voters contained  
2 in the master voter registration file.

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

4 Section 1. That § 12-4-9 be amended to read as follows:

5 12-4-9. The county auditor shall maintain and safeguard a file of voters in computer format  
6 that contains each person registered in each voting precinct within the county. This file shall be  
7 known as the master registration file and shall be, at all times during office hours, open to public  
8 inspection. However, public access to social security numbers and driver license numbers  
9 contained in the master registration file shall be ~~restricted~~ prohibited. Public access to each  
10 voter's day and month of birth shall be restricted. Public access to the voter's year of birth is not  
11 restricted. The master registration file shall contain all information from each voter's registration  
12 card except the description of the location of the voter's residence. The master registration file  
13 shall also include the date of the last election the voter has voted in and when the voter's  
14 information was last updated. The master registration file may also contain additional voter  
15 history information.



# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

400P0143

## SENATE LOCAL GOVERNMENT ENGROSSED NO. **SB 3** - 1/14/2008

Introduced by: The Committee on Local Government at the request of the Office of the  
Secretary of State

1 FOR AN ACT ENTITLED, An Act to revise certain procedures concerning elections for special  
2 districts and to declare an emergency.

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

4 Section 1. That § 6-16-4 be amended to read as follows:

5 6-16-4. The county auditor shall publish the notice of the voter registration deadline at least  
6 once each week for two consecutive weeks, the last publication to be not less than ~~twenty-five~~  
7 twenty-four nor more than thirty days prior to the election. The auditor shall publish notices of  
8 election at least once each week for two consecutive weeks, the last publication to be not less  
9 than four nor more than ten days before the election in at least one legal newspaper of general  
10 circulation in the proposed district.

11 Section 2. That § 6-16-5 be amended to read as follows:

12 6-16-5. ~~The~~ If the proposed district contains less than one thousand eligible voters as defined  
13 in § 6-16-6, the county auditor shall set a date, time, and location for a meeting to be held within  
14 the district to conduct an election on the question of formation of the special district. The date



1 may not be more than sixty days after the appropriate board declares that the application for  
2 incorporation is valid. The auditor shall appoint three judges of election, one of whom shall  
3 serve as the superintendent, to conduct the election. The vote upon the question of incorporation  
4 shall be by ballot which conforms to a ballot for a statewide question except that the statement  
5 required to be printed on the ballot shall be prepared by the state's attorney. After the vote is cast  
6 and counted, the judges shall prepare a certification showing the whole number of ballots cast,  
7 together with the number voting for and the number voting against incorporation, and shall  
8 return the certification to the county auditor. If a majority of the votes cast on the question of  
9 formation is in favor, an election shall be conducted by those present at the same meeting to  
10 elect the initial board of directors or trustees.

11 Section 3. That § 6-16-8 be amended to read as follows:

12 6-16-8. The State Board of Elections may promulgate rules pursuant to chapter 1-26  
13 concerning:

- 14 (1) The petition form; ~~and~~ for the formation of a special district;
- 15 (2) The notice of election; and
- 16 (3) The nominating petition.

17 The petition form and notice of election shall include a description of the proposed district  
18 boundaries.

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

21 If the proposed district contains one thousand or more eligible voters as defined in § 6-16-6,  
22 the county auditor shall set a date for an election to be held within the district on the question  
23 of formation of the special district. The date may not be more than sixty days after the  
24 appropriate board declares that the application for incorporation is valid. The election shall be

1 conducted pursuant to Title 12. The vote upon the question of incorporation shall be by ballot  
2 which conforms to a ballot for a statewide question except that the statement required to be  
3 printed on the ballot shall be prepared by the state's attorney. The election shall be canvassed  
4 by the county commission.

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

7 If a majority of the votes cast in an election conducted pursuant to section 4 of this Act is  
8 in favor on the question of formation of the special district, an election shall be conducted by  
9 the county auditor within sixty days after the official canvass to elect the initial board of  
10 directors or trustees. The election shall be conducted pursuant to Title 12. The county auditor  
11 shall publish a notice of vacancy no later than fifty days prior to the election. Circulation of  
12 nominating petitions may begin upon completion of the official canvass of the election to form  
13 the district. Nominating petitions shall be filed with the county auditor by 5:00 p.m. at least  
14 thirty days before the election. The nominating petitions shall contain signatures of at least  
15 twenty-five registered voters in the district. Absentee ballots shall be made available to the  
16 voters no later than twenty days before the date of election. The election shall be canvassed by  
17 the county commission.

18 Section 6. Whereas, this Act is necessary for the support of the state government and its  
19 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in  
20 full force and effect from and after its passage and approval.