



2025 South Dakota Legislature

Senate Bill 121

Introduced by: **Senator Deibert**

1 **An Act to reduce maximum values for certain property taxes levied on owner-**
2 **occupied single-family dwellings, and to increase the rates for certain gross**
3 **receipts taxes and use taxes.**

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

5 **Section 1.** It is the intention of the Legislature that the proceeds of the tax rate increases in
6 sections 3 to 18, inclusive, and section 24 of this Act, be used to supplant all unrealized
7 property tax revenue resulting from a mill levy of zero being applied to owner-occupied single-
8 family dwellings, for school district general funds and school district special education funds.

9 It is the intention of the Legislature that these levies for owner-occupied single-family
10 dwellings do not affect the mill levies for the other classifications of real property, and do not
11 adversely affect the total amount of moneys available to school districts through the school
12 district funding formulas for general funds and special education funds.

13 **Section 2. That § 10-12-42 be AMENDED:**

14 **10-12-42.** For taxes payable in ~~2025~~ 2026, and each year thereafter, the levy for
15 the general fund of a school district is as follows:

16 (1) The maximum ~~tax~~ mill levy is five dollars and fifty-four and four-tenths cents per
17 thousand dollars of taxable valuation, subject to the limitations on agricultural
18 property as provided in subdivision (2) ~~of this section~~ and owner-occupied property
19 as provided in subdivision (3) ~~of this section~~;

20 (2) The maximum ~~tax~~ mill levy on agricultural property for the school district is one
21 dollar and nineteen and seven-tenths cents per thousand dollars of taxable
22 valuation. If the district's levies are less than the maximum levies as stated in this
23 section, the mill levies imposed in subdivisions (1) and (2) must maintain the same
24 proportion to each other as represented in the mathematical relationship at the
25 maximum mill levies; and

(3) The maximum ~~tax mill~~ levy for an owner-occupied single-family dwelling pursuant to § 10-13-40 for the school district is ~~two dollars and sixty-seven and nine tenths cents~~ zero dollars and zero cents per thousand dollars of taxable valuation. ~~If the district's levies are less than the maximum levies as stated in this section, the levies must maintain the same proportion to each other as represented in the mathematical relationship at the maximum levies.~~

All levies in this section must be imposed on valuations where the median level of assessment represents eighty-five percent of market value as determined by the Department of Revenue. These valuations must be used for all school funding purposes. If the district has imposed an excess levy pursuant to § 10-12-43, the levies must maintain the same proportion to each other as represented in the mathematical relationship at the maximum levies in this section for taxes payable in 2025. The school district may elect to tax at less than the maximum amounts set forth in this section.

Section 3. That § 10-45-2 be AMENDED:

10-45-2. There is hereby imposed a tax upon the privilege of engaging in business as a retailer, a tax ~~of four and two tenths~~ at the rate of five percent upon the gross receipts of all sales of tangible personal property consisting of goods, wares, or merchandise, except as otherwise provided in this chapter, sold at retail in the state to consumers or users.

Section 4. That § 10-45-5 be AMENDED:

10-45-5. There is imposed a tax, at the same ~~rate of four and two tenths percent set forth in § 10-45-2,~~ upon the gross receipts of any person from engaging or continuing in any of the following businesses or services in this state:

- (1) ~~abstracters~~ Abstracters;
- (2) ~~accountants~~ Accountants;
- (3) ~~ancillary~~ Ancillary services;
- (4) ~~architects~~ Architects;
- (5) ~~barbers~~ Barbers;
- (6) ~~beauty~~ Beauty shops;
- (7) ~~bill~~ Bill collection services;
- (8) ~~blacksmith~~ Blacksmith shops;
- (9) ~~car~~ Car washing;
- (10) ~~dry~~ Dry cleaning;

- 1 ~~(11) dyeing~~Dyeing;
2 ~~(12) exterminators~~Exterminators;
3 ~~(13) garage~~Garage and service stations;
4 ~~(14) garment~~Garment alteration;
5 ~~(15) cleaning~~Cleaning and pressing;
6 ~~(16) janitorial~~Janitorial services and supplies;
7 ~~(17) specialty~~Specialty cleaners;
8 ~~(18) laundry~~Laundry;
9 ~~(19) linen~~Linen and towel supply;
10 ~~(20) membership~~Membership or entrance fees for the use of a facility or for the right to
11 purchase tangible personal property, any product transferred electronically, or
12 services;
13 ~~(21) photography~~Photography;
14 ~~(22) photo~~Photo developing and enlarging;
15 ~~(23) tire~~Tire recapping;
16 ~~(24) welding~~Welding and all repair services, except repair services for farm machinery,
17 attachment units, and irrigation equipment used exclusively for agricultural
18 purposes;
19 ~~(25) cable~~Cable television; and
20 ~~(26) rentals~~Rentals of tangible personal property except leases of tangible personal
21 property between one telephone company and another telephone company, motor
22 vehicles as defined pursuant to § 32-5-1 leased under a single contract for more
23 than twenty-eight days, and mobile homes.
24 However, ~~the~~The specific enumeration of businesses and professions made in this
25 section does not, in any way, limit the scope and effect of the provisions of § 10-45-4.

26 **Section 5. That § 10-45-5.3 be AMENDED:**

27 **10-45-5.3.** There is imposed, at the ~~same rate of four and two-tenths percent set~~
28 ~~forth in § 10-45-2~~, an excise tax on the gross receipts of any person engaging in oil and
29 gas field services (group no. 138) as enumerated in the Standard Industrial Classification
30 Manual, 1987, as prepared by the Statistical Policy Division of the Office of Management
31 and Budget, Office of the President.

32 **Section 6. That § 10-45-6 be AMENDED:**

1 **10-45-6.** There is hereby imposed a tax ~~of four and two-tenths percent, at the~~
2 same rate set forth in § 10-45-2, upon the gross receipts from sales, furnishing, or service
3 of gas, electricity, and water, including the gross receipts from ~~such these~~ sales by any
4 municipal corporation furnishing gas, and electricity, to the public in its proprietary
5 capacity, except as otherwise provided in this chapter, when sold at retail in ~~the State of~~
6 ~~South Dakota~~ this state to consumers or users.

7 **Section 7. That § 10-45-6.1 be AMENDED:**

8 **10-45-6.1.** Except as provided in § 10-45-6.2, there is hereby imposed a tax ~~of~~
9 ~~four and two-tenths percent, at the same rate set forth in § 10-45-2,~~ upon the gross
10 receipts from providing any intrastate, interstate, or international telecommunications
11 service that originates or terminates in this state and that is billed or charged to a service
12 address in this state, or that both originates and terminates in this state. However, the
13 tax imposed by this section does not apply to:

- 14 (1) Any eight hundred or eight hundred-type service, unless the service both originates
15 and terminates in this state;
16 (2) Any sale of a telecommunication service to a provider of telecommunication
17 services, including access service, for use in providing any telecommunication
18 service; or
19 (3) Any sale of interstate telecommunication service provided to a call center that has
20 been certified by the secretary of revenue to meet the criterion established in § 10-
21 45-6.3 and the call center has provided to the telecommunications service provider
22 an exemption certificate issued by the secretary indicating that it meets the
23 criterion.

24 If a call center uses an exemption certificate to purchase services not meeting the
25 criterion established in § 10-45-6.3, the call center is liable for the applicable tax, penalty,
26 and interest.

27 **Section 8. That § 10-45-6.2 be AMENDED:**

28 **10-45-6.2.** There is hereby imposed a tax ~~of four and two-tenths percent, at the~~
29 same rate set forth in § 10-45-2, upon the gross receipts of mobile telecommunications
30 services, as defined in 4 U.S.C. § 124(7) ~~as of (January 1, 2002),~~ that originate and
31 terminate in the same state and are billed to a customer with a place of primary use in
32 this state or are deemed to have originated or been received in this state and to be billed
33 or charged to a service address in this state if the customer's place of primary use is

1 located in this state regardless of where the service actually originates or terminates.
2 Notwithstanding any other provision of this chapter and for purposes of the tax imposed
3 by this section, the tax imposed upon mobile telecommunication services must be
4 administered in accordance with 4 U.S.C. §§ 116-126, ~~as in effect on~~ (July 28, 2000).

5 **Section 9. That § 10-45-8 be AMENDED:**

6 **10-45-8.** Except as otherwise provided in this chapter, there is imposed a tax ~~of~~
7 ~~four and two-tenths percent, at the same rate set forth in § 10-45-2,~~ upon the gross
8 receipts from all sales of tickets or admissions to:

- 9 (1) Places of amusement;
10 (2) Athletic contests; or
11 (3) Events.

12 **Section 10. That § 10-45-71 be AMENDED:**

13 **10-45-71.** There is imposed a tax ~~of four and two-tenths percent, at the same~~
14 ~~rate set forth in § 10-45-2,~~ on the gross receipts from the transportation of passengers.
15 The tax imposed by this section applies to any transportation of passengers if the
16 passenger boards and exits the mode of transportation within this state.

17 **Section 11. That § 10-46-2.1 be AMENDED:**

18 **10-46-2.1.** For the privilege of using services in ~~South Dakota~~ this state, except
19 those types of services exempted by § 10-46-17.3, there is imposed on the person using
20 the service an excise tax ~~equal to four and two-tenths~~ at a rate of five percent of the value
21 of the services at the time they are rendered. ~~However, this~~ This tax may not be imposed
22 on any service rendered by a related corporation, as defined in subdivision 10-43-1(11),
23 for use by a financial institution, as defined in subdivision 10-43-1(4), ~~or on any service~~
24 ~~rendered by a financial institution, as defined in subdivision 10-43-1(4),~~ for use by a
25 related corporation as defined in subdivision 10-43-1(11) and as provided below.

26 For the purposes of this section, the term, related corporation, includes a
27 corporation, which together with the financial institution, is part of a controlled group of
28 corporations, as defined in 26 U.S.C. § 1563 ~~as in effect on~~ (January 1, 1989), except that
29 the eighty percent ownership requirements set forth in 26 U.S.C. ~~§ 563(a)(2)(A)~~ §
30 1563(a) for a brother-sister controlled group are reduced to fifty-one percent.

1 For the purpose of this chapter, services rendered by an employee for the use of
2 the employer are not taxable.

3 **Section 12. That § 10-46-2.2 be AMENDED:**

4 **10-46-2.2.** An excise tax is imposed upon the privilege of the use of rented
5 tangible personal property and any product transferred electronically in this state at the
6 same rate of four and two-tenths percent set forth in § 10-46-2.1, of on the rental
7 payments upon the property.

8 **Section 13. That § 10-46-58 be AMENDED:**

9 **10-46-58.** There is imposed a tax ~~of four and two-tenths percent, at the same~~
10 rate set forth in § 10-46-2.1, on upon the privilege of the use of any transportation of
11 passengers. The tax imposed by this section applies to any transportation of passengers
12 if the passenger boards and exits the mode of transportation within this state.

13 **Section 14. That § 10-46-69 be AMENDED:**

14 **10-46-69.** There is hereby imposed a tax ~~of four and two-tenths percent, at the~~
15 same rate set forth in § 10-46-2.1, upon the privilege of the use of mobile
16 telecommunications services, as defined in 4 U.S.C. § 124(7) ~~as of (January 1, 2002),~~
17 that originate and terminate in the same state and are billed to a customer with a place
18 of primary use in this state. Notwithstanding any other provision of this chapter and for
19 purposes of the tax imposed by this section, the tax imposed upon mobile
20 telecommunication services must be administered in accordance with 4 U.S.C. §§ 116-
21 126, ~~as in effect on (July 28, 2000).~~

22 **Section 15. That § 10-46-69.1 be AMENDED:**

23 **10-46-69.1.** Except as provided in § 10-46-69, there is hereby imposed a tax ~~of~~
24 ~~four and two-tenths percent, at the same rate set forth in § 10-46-2.1,~~ upon the privilege
25 of the use of any intrastate, interstate, or international telecommunications service that
26 originates or terminates in this state and that is billed or charged to a service address in
27 this state, or that both originates and terminates in this state. ~~However, the~~ The tax
28 imposed by this section does not apply to:

29 (1) Any eight hundred or eight hundred type service, unless the service both originates
30 and terminates in this state;

1 (2) Any sale of a telecommunication service to a provider of telecommunication
2 services, including access service, for use in providing any telecommunication
3 service; or

4 (3) Any sale of interstate telecommunication service provided to a call center that has
5 been certified by the secretary of revenue to meet the criterion established in § 10-
6 45-6.3 and the call center has provided to the telecommunications service provider
7 an exemption certificate issued by the secretary indicating that it meets the
8 criterion.

9 If a call center uses an exemption certificate to purchase services not meeting the
10 criterion established in § 10-45-6.3, the call center is liable for the applicable tax, penalty,
11 and interest.

12 **Section 16. That § 10-46-69.2 be AMENDED:**

13 **10-46-69.2.** There is hereby imposed a tax of ~~four and two-tenths percent~~, at the
14 same rate set forth in § 10-46-2.1, upon the privilege of the use of any ancillary services.

15 **Section 17. That § 10-46E-1 be AMENDED:**

16 **10-46E-1.** There is hereby imposed an excise tax of ~~four and two-tenths~~ five
17 percent on the gross receipts from the sale, resale, or lease of farm machinery, attachment
18 units, and irrigation equipment used exclusively for agricultural purposes. ~~However, if~~ If
19 any trade-in or exchange of used farm machinery, attachment units, and irrigation
20 equipment is involved in the transaction, the excise tax is only due and may only be
21 collected on the cash difference.

22 **Section 18. That § 10-58-1 be AMENDED:**

23 **10-58-1.** There is imposed upon owners and operators a special amusement
24 excise tax of ~~four and two-tenths~~ five percent of the gross receipts from the sale or the
25 operation of any mechanical or electronic amusement device. The tax imposed by this
26 section is in lieu of the tax imposed pursuant to chapter 10-45.

27 **Section 19. That § 13-37-16 be AMENDED:**

28 **13-37-16.** For taxes payable in ~~2025~~ 2026, and each year thereafter, the school
29 board shall levy no more than one dollar and forty-eight and eight-tenths cents per
30 thousand dollars of taxable valuation of property classified for purposes of taxation as

agricultural property or nonagricultural property, as a special levy in addition to all other levies authorized by law for the amount so determined to be necessary, and the levy must be spread against all of the taxable property of the district not classified as owner-occupied single-family dwellings, as defined in § 10-13-39. The proceeds derived from the levy 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 §§ 13-37-8.4 to 13-37-8.10, inclusive.

The levy in this section is based on valuations where 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 is 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 20. That § 13-37-35.1 be AMENDED:

13-37-35.1. 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," must be calculated for taxes payable in 2025 and thereafter using a special education levy of one dollar and twenty-eight and eight-tenths cents per one thousand dollars of taxable valuation of property classified for purposes of taxation as agricultural property or nonagricultural property;
- (8) "Allocation for a student with a level one disability," for the school fiscal year beginning July 1, 2024, is \$7,556.00. For each school year thereafter, the allocation

- 1 for a student with a level one disability must be the previous fiscal year's allocation
2 for the child increased by the index factor;
- 3 (9) "Allocation for a student with a level two disability," for the school fiscal year
4 beginning July 1, 2024, is \$16,553.00. For each school year thereafter, the
5 allocation for a student with a level two disability must be the previous fiscal year's
6 allocation for the child increased by the index factor;
- 7 (10) "Allocation for a student with a level three disability," for the school fiscal year
8 beginning July 1, 2024, is \$22,854.00. For each school year thereafter, the
9 allocation for a student with a level three disability must be the previous fiscal
10 year's allocation for the child increased by the index factor;
- 11 (11) "Allocation for a student with a level four disability," for the school fiscal year
12 beginning July 1, 2024, is \$17,831.00. For each school year thereafter, the
13 allocation for a student with a level four disability must be the previous fiscal year's
14 allocation for the child increased by the index factor;
- 15 (12) "Allocation for a student with a level five disability," for the school fiscal year
16 beginning July 1, 2024, is \$36,582.00. For each school year thereafter, the
17 allocation for a student with a level five disability must be the previous fiscal year's
18 allocation for the child increased by the index factor;
- 19 (12A) "Allocation for a student with a level six disability," for the school fiscal year
20 beginning July 1, 2024, is \$11,692.00. For each school year thereafter, the
21 allocation for a student with a level six disability must be the previous fiscal year's
22 allocation for the child increased by the index factor;
- 23 (13) "Child count," is the number of students in need of special education or special
24 education and related services according to criteria set forth in rules promulgated
25 pursuant to §§ 13-37-1.1 and 13-37-46 submitted to the Department of Education;
- 26 (14) "Fall enrollment," the number of kindergarten-through-twelfth-grade students
27 enrolled in all schools operated by the school district on the last Friday of
28 September of the previous school year minus the number of students for whom
29 the district receives tuition, except any nonresident student who is in the care and
30 custody of a state agency and is attending a public school and any student for
31 whom tuition is being paid pursuant to § 13-28-42.1, plus the number of students
32 for whom the district pays tuition;
- 33 (15) "Nonpublic school," a sectarian organization or entity accredited by the secretary of
34 education for the purpose of instructing children of compulsory school age. This

- 1 definition excludes any school that receives a majority of its revenues from public
2 funds;
- 3 (16) "Nonpublic fall enrollment," the number of children under age eighteen, who are
4 approved for alternative instruction pursuant to § 13-27-3 on the last Friday of
5 September of the previous school year plus:
- 6 (a) For nonpublic schools located within the boundaries of a public school
7 district with a fall enrollment of six hundred or more on the last Friday of
8 September of the previous school year, the number of kindergarten-
9 through-twelfth-grade students enrolled on the last Friday of September of
10 the previous regular school year in all nonpublic schools located within the
11 boundaries of the public school district;
- 12 (b) For nonpublic schools located within the boundaries of a public school
13 district with a fall enrollment of less than six hundred on the last Friday of
14 September of the previous school year, the number of resident
15 kindergarten-through-twelfth-grade students enrolled on the last Friday of
16 September of the previous school year in all nonpublic schools located
17 within this state;
- 18 (17) "Special education fall enrollment," fall enrollment plus nonpublic fall enrollment;
- 19 (18) "Local need," an amount to be determined as follows:
- 20 (a) Multiply the special education fall enrollment by 0.1062 and multiply the
21 result by the allocation for a student with a level one disability;
- 22 (b) Multiply the number of students having a level two disability as reported on
23 the child count for the previous school fiscal year by the allocation for a
24 student with a level two disability;
- 25 (c) Multiply the number of students having a level three disability as reported
26 on the child count for the previous school fiscal year by the allocation for a
27 student with a level three disability;
- 28 (d) Multiply the number of students having a level four disability as reported on
29 the child count for the previous school fiscal year by the allocation for a
30 student with a level four disability;
- 31 (e) Multiply the number of students having a level five disability as reported on
32 the child count for the previous school fiscal year by the allocation for a
33 student with a level five disability;

- 1 (f) Multiply the number of students having a level six disability as reported on
 2 the child count for the previous school fiscal year by the allocation for a
 3 student 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 subdivisions (18)(a) to (h), inclusive;
 9 (19) "Effort factor," the school district's special education tax levy in dollars per thousand
 10 divided by \$1.288. The maximum effort factor is 1.0.

11 **Section 21. That § 13-13-71 be AMENDED:**

12 **13-13-71.** If local effort increases on a statewide aggregate basis by a greater
 13 percentage than local need on a statewide aggregate basis from any one year to the next,
 14 for the following year each of the mill levies specified in ~~subdivision 13-13-10.1(13)~~ shall
 15 subdivisions 10-12-42(1) and (2) must be reduced proportionally so that the percentage
 16 increase in local effort on a statewide aggregate basis equals the percentage increase in
 17 need on a statewide aggregate basis.

18 **Section 22. That § 13-13-72 be AMENDED:**

19 **13-13-72.** ~~It is the policy of the Legislature that In 2026 and each year thereafter,~~
 20 the appropriation for state aid to education must ~~increase on an annual basis annually~~ by
 21 the percentage increase in local need on an aggregate statewide basis so that the relative
 22 proportion of local need paid by local effort and state aid ~~shall remain constant. For school~~
 23 ~~fiscal years 2017 to 2022, inclusive, the proportion of local need paid by local effort and~~
 24 ~~state aid shall be adjusted annually to maintain the proportion between state aid and local~~
 25 ~~property taxes and to reflect adjustments in local effort due to the implementation of the~~
 26 ~~other revenue base amount as defined in § 13-13-10.1.~~

27 **Section 23. That § 13-13-72.1 be AMENDED:**

28 **13-13-72.1.** ~~Any adjustments~~ In 2026 and each year thereafter, any adjustment
 29 in the levies specified in § 10-12-42 made pursuant to §§ 13-13-71 and 13-13-72 ~~shall~~
 30 ~~be based on maintaining~~ must maintain the relationship between statewide local effort as
 31 a percentage of statewide local need in the fiscal year succeeding the fiscal year in which

1 the adjustment is made. ~~For school fiscal years 2017 to 2022, inclusive, the proportion of~~
2 ~~local need paid by local effort and state aid shall be adjusted annually to reflect~~
3 ~~adjustments in local effort due to the implementation of the other revenue base amount~~
4 ~~as defined in § 13-13-10.1. However, if~~ If the levies specified in § 10-12-42 are not
5 adjusted to maintain this relationship, the target teacher salary, as defined in § 13-13-
6 10.1 ~~shall be,~~ is reduced to maintain the relationship between statewide local effort as a
7 percentage of statewide local need.

8 **Section 24. That § 32-5B-20 be AMENDED:**

9 **32-5B-20.** There is hereby imposed a tax of ~~four and two-tenths~~ five percent upon
10 the gross receipts of any person renting a rental vehicle as defined in § 32-5B-19. This
11 tax applies to all vehicles registered in accordance with § 32-5-6, 32-5-8.1, or 32-5-9.
12 Any rental vehicle not licensed in accordance with § 32-5-6, 32-5-8.1, or 32-5-9 is subject
13 to the motor vehicle excise tax in § 32-5B-1.

14 The tax imposed by this section is in addition to any tax levied pursuant to chapter
15 10-45 or 10-46 upon the rental of a rental vehicle. The provisions of chapter 10-45 apply
16 to the administration and enforcement of the tax imposed by this section. The tax imposed
17 by this section is in lieu of the tax levied by § 32-5B-1 on the sales of such motor vehicles.
18 A violation of this section is a Class 1 misdemeanor.

19 **Section 25.** Sections 3 to 18, inclusive, and section 24 of this Act are effective beginning
20 January 1, 2026.

21 **Section 26. That 2023 Session Laws, chapter 32, § 19 be REPEALED:**

22 ~~**Section 27.** The amendments to the Code sections in sections 1 to 17, inclusive,~~
23 ~~of this Act are repealed on June 30, 2027, and those Code sections will revert in word and~~
24 ~~substance to that which existed immediately prior to the effective date of this Act.~~