

# State of South Dakota

NINETY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 2019

916B0545

## HOUSE BILL NO. 1234

Introduced by: Representatives Post, Beal, Brunner, Chaffee, Dennert, Deutsch, Finck, Gosch, Greenfield (Lana), Gross, Howard, Jensen (Kevin), Johnson (Chris), Johnson (David), Koth, Latterell, Marty, Perry, Peterson (Kent), Peterson (Sue), Pischke, Qualm, Reed, Schoenfish, Steele, Weis, Wiese, and Zikmund and Senators Greenfield (Brock), Blare, Cronin, DiSanto, Kolbeck, Maher, Smith (VJ), Wiik, and Youngberg

1 FOR AN ACT ENTITLED, An Act to provide funding to schools from the contractor's excise  
2 tax on concentrated animal feeding operations.

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

4 Section 1. That the code be amended by adding a NEW SECTION to read:

5 Any contractor's excise tax paid under chapter 10-46A on realty improvement contracts for  
6 concentrated animal feeding operations up to two hundred thousand tax dollars shall be  
7 deposited into the general fund of the school district in which the concentrated animal feeding  
8 operation is located. Any contractor's excise tax paid under chapter 10-46A on realty  
9 improvement contracts for concentrated animal feeding operations above two hundred thousand  
10 tax dollars shall be deposited in the supplementary special education fund created in section 2  
11 of this Act. For purposes of this Act, concentrated animal feeding operation, is defined  
12 according to Title 40 Codified Federal Regulations Part 122.23, dated January 1, 2019. The  
13 secretary of revenue shall promulgate rules, pursuant to chapter 1-26, to separate the amount of



1 contractor's excise tax paid on concentrated animal feeding operations from the contractor's  
2 excise tax paid on other projects, and to separate the contractor's excise tax paid on concentrated  
3 animal feeding operations above two hundred thousand tax dollars from the contractor's excise  
4 tax paid on concentrated animal feeding operations up to two hundred thousand tax dollars.

5 Section 2. That the code be amended by adding a NEW SECTION to read:

6 There is hereby created within the state treasury the supplementary special education fund,  
7 into which shall be deposited all contractor's excise tax paid under chapter 10-46A on realty  
8 improvement contracts for concentrated animal feeding operations above two hundred thousand  
9 tax dollars under section 1 of this Act. All moneys in the fund created by this section are  
10 continuously appropriated to the Department of Education to be used for the purpose of  
11 covering extraordinary expenses incurred in providing special education programs or services  
12 to one or more children with disabilities. Interest earned on money in the fund shall be deposited  
13 into the fund. Expenditures shall be made as recommended by the extraordinary cost oversight  
14 board created under § 13-37-46 and approved by the secretary of the Department of Education.  
15 Any money deposited into and distributed from the fund shall be set forth in an informational  
16 budget as described in § 4-7-7.2.

17 Section 3. That the code be amended by adding a NEW SECTION to read:

18 The supplementary special education fund shall be administered by the Department of  
19 Education.

20 Section 4. That the code be amended by adding a NEW SECTION to read:

21 Expenditures authorized by this Act for the supplementary special education fund shall be  
22 paid on warrants drawn by the state auditor on vouchers approved by the secretary of the  
23 Department of Education.