



2026 South Dakota Legislature

Senate Bill 85

SENATE EDUCATION ENGROSSED

Introduced by: **Senator Peterson (Sue)**

1 **An Act to require an election for an excess tax levy of a school district.**

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

3 **Section 1. That § 10-12-43 be AMENDED:**

4 **10-12-43.** The governing body of the school district may raise additional revenues
 5 for general fund purposes only, from property tax through the imposition of an excess tax
 6 levy. The governing body of a school district may impose the excess tax levy with an
 7 affirmative two-thirds vote of the governing body on or before July fifteenth of the year
 8 prior to the year the taxes are payable. ~~On any excess tax levy approved after July 1,~~
 9 ~~2002, the~~ The governing body of the taxing district shall specify in the resolution the year
 10 or number of years the excess tax levy ~~will~~ is to be applied and the total maximum dollar
 11 amount of taxes payable over the full term of the excess tax levy.

12 The requirements for an announcement made pursuant to this section are as
 13 follows:

- 14 (1) The decision of the governing body to originally impose or subsequently increase
 15 an excess tax levy ~~shall~~ must be first published within ten days of the decision;
- 16 (2) Publication ~~shall~~ must be made at least twice in the legal newspaper designated
 17 pursuant to § 13-8-10, with no fewer than five days between publication dates,
 18 before the opt out takes effect;
- 19 (3) The announcement ~~shall~~ must be at least three newspaper columns in width and
 20 four inches in length or at least one-sixth of a page in size, whichever size is
 21 greater; and
- 22 (4) The announcement ~~shall~~ must be headed with the following statement in a typeface
 23 no less than ~~eighteen point~~ eighteen-point type: "ATTENTION TAXPAYERS: NOTICE
 24 OF PROPERTY TAX INCREASE OF \$(fill in amount)." The remainder of the
 25 announcement ~~shall~~ must consist of a reproduction of the "Resolution for Opt Out,"
 26 including the amount that property taxes ~~will~~ are to be increased annually by the

1 proposed opt out ~~and, the number of years that the excess tax levy is to be applied~~
 2 ~~and the total maximum dollar amount of taxes payable over the full term of the~~
 3 ~~excess tax levy,~~ a statement of the right to refer the decision of the board to a vote
 4 of the people as provided in this section, ~~and the date of the referral election.~~

5 The secretary of ~~revenue~~ the Department of Revenue, in rules promulgated
 6 pursuant to chapter 1-26, shall prescribe a uniform form to be used by the school district
 7 for notification of taxpayers as required by this section.

8 ~~However, the~~ The requirements of subdivisions (3) and (4) ~~shall be of this section~~
 9 are waived if:

10 ~~(A) The~~ the opt out is for less than fifteen thousand dollars; ~~or,~~

11 ~~(B) A~~ The requirements of subdivisions (3) and (4) of this section are waived if a
 12 copy of the resolution for opt out is mailed to every property taxpayer in the local
 13 governmental unit, by first class mail or bulk mail, within twenty days of the decision to
 14 opt out; ~~z~~ and

15 ~~(C) A copy of the resolution for opt out~~ is printed in each official newspaper in the
 16 local governmental unit's boundaries.

17 For the purposes of ~~subsections (A), (B), and (C)~~ this section, the first publication
 18 is not deemed to have occurred until three days after the mailing is sent or the resolution
 19 is delivered to the official newspaper.

20 The opt out decision ~~may~~ must be referred to a vote of the people ~~upon a resolution~~
 21 ~~of the governing body of the school district or by a petition signed by at least five percent~~
 22 ~~of the registered voters in the school district and filed with the governing body within~~
 23 ~~twenty days of the first publication of the decision. The ballot used for an excess tax levy~~
 24 election must clearly state the number of years the excess tax levy is to be applied and
 25 the total maximum dollar amount of taxes payable over the full term of the excess tax
 26 levy. The election must be conducted in the same manner as a special election conducted.
 27 ~~The~~ pursuant to § 13-16-6.4, except that the referendum election ~~shall~~ must be held on
 28 or before October first of the year prior to the ~~time~~ year the taxes are payable.

29 **Section 2. That § 10-12-43.1 be AMENDED:**

30 **10-12-43.1.** A school district may raise additional revenues for capital outlay fund
 31 purposes through the imposition of an excess tax levy. A school district seeking to impose
 32 an excess tax levy pursuant to this section is subject to the same opt out procedures and
 33 requirements as provided in § 10-12-43. The ballot used for an excess tax levy election
 34 must clearly state the number of years the excess tax levy is to be applied and the total

1 maximum dollar amount of taxes payable over the full term of the excess tax levy. The
2 opt out decision ~~may~~ must be referred to a vote of the people in the same manner as
3 provided in § 10-12-43.

4 A school district imposing an excess tax levy pursuant to this section shall exclude
5 ~~any~~ additional revenue generated by the excess tax levy from the total tax revenues
6 deposited in the capital outlay fund when calculating the maximum allowable transfer to
7 the school district's general fund authorized under § 13-16-6. ~~Any additional~~ Additional
8 revenue generated by the excess tax levy may only be used for capital outlay fund
9 purposes pursuant to § 13-16-6.

10 In no year may the annual tax levy for capital outlay fund purposes exceed the
11 levy authorized under § 13-16-7.