

2026 South Dakota Legislature

Senate Bill 85**AMENDMENT 85C
FOR THE SENATE EDUCATION ENGROSSED BILL**

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

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

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

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

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

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

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

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

The ~~In a school district with a fall enrollment, as defined in § 13-13-10.1, of fewer~~
~~than two thousand five hundred students, the~~ opt out decision ~~may~~ must be referred to a
vote of the people upon a resolution of the governing body of the school district or by a
petition signed by at least five percent of the registered voters in the school district and
filed with the governing body within twenty days of the first publication of the decision. In
a school district with a fall enrollment, as defined in § 13-13-10.1, of two thousand five
hundred students or greater, the opt out decision must be referred to a vote of the people.

The ballot used for an excess tax levy election must clearly state the number of
years the excess tax levy is to be applied and the total maximum dollar amount of taxes
payable over the full term of the excess tax levy. The election must be conducted in the
same manner as a special election conducted. ~~The~~ pursuant to § 13-16-6.4, except that
the referendum election ~~shall~~ must be held on or before October first of the year prior to
~~the time~~ year the taxes are payable.

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

1 **10-12-43.1.** A school district may raise additional revenues for capital outlay fund
2 purposes through the imposition of an excess tax levy. A school district seeking to impose
3 an excess tax levy pursuant to this section is subject to the same opt out procedures and
4 requirements as provided in § 10-12-43. The ballot used for an excess tax levy election
5 must clearly state the number of years the excess tax levy is to be applied and the total
6 maximum dollar amount of taxes payable over the full term of the excess tax levy. ~~The In~~
7 ~~a school district with a fall enrollment, as defined in § 13-13-10.1, of fewer than two~~
8 ~~thousand five hundred students, the~~ opt out decision ~~may~~must be referred to a vote of
9 the people in the same manner as provided in § 10-12-43. In a school district with a fall
10 enrollment, as defined in § 13-13-10.1, of two thousand five hundred students or greater,
11 the opt out decision must be referred to a vote of the people in the same manner as
12 provided in § 10-12-43.

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

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