



2026 South Dakota Legislature

House Bill 1241

SENATE TAXATION ENGROSSED

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

Introduced by: **Representative Jensen (Phil)**

1 **An Act to modify the requirements for public notice of a hearing prior to a vote to**
 2 **impose an excess tax levy, and to modify requirements to refer an excess tax**
 3 **levy of a school district to a vote.**

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

5 **Section 1. That a NEW SECTION be added to chapter 10-12:**

6 At least twenty-one days prior to a vote by the board of a school district to impose
 7 an excess tax levy pursuant to § 10-12-43 or 10-12-43.1, the board shall publish, in the
 8 legal newspaper designated pursuant to § 13-8-10 and on the district's website, notice of
 9 its intent to vote on the imposition of an excess tax levy.

10 The county director of equalization shall mail or electronically transmit the notice
 11 to all property owners in the district within the county's boundaries, and the school district
 12 shall reimburse the county for printing and mailing costs incurred by the county pursuant
 13 to this section.

14 The notice must include:

- 15 (1) The maximum amount under consideration in excess of the limitations applicable
 16 to the school district;
 17 (2) The amount allowed to be imposed without an excess tax levy;
 18 (3) The date, time, and location of the public hearing at which the board will vote to
 19 impose an excess tax levy;
 20 (4) The estimated increase in property taxes, in the district per one hundred thousand
 21 dollars of taxable value, as a result of the excess tax levy; and
 22 (5) The intended use of moneys collected from the excess tax levy being considered.

23 The board of the school district shall, at the public hearing, provide taxpayers with
 24 an opportunity to comment on the excess tax levy.

25 **Section 2. That § 10-12-43 be AMENDED:**

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

9 The requirements for an announcement made pursuant to this section are as
 10 follows:

- 11 (1) The decision of the governing body to originally impose or subsequently increase
 12 an excess tax levy shall be first published within ten days of the decision;
- 13 (2) Publication shall be made at least twice in the legal newspaper designated pursuant
 14 to § 13-8-10, with no fewer than five days between publication dates, before the
 15 opt out takes effect;
- 16 (3) The announcement shall be at least three newspaper columns in width and four
 17 inches in length or at least one-sixth of a page in size, whichever size is greater;
- 18 (4) The announcement shall be headed with the following statement in a typeface no
 19 less than eighteen point type: "ATTENTION TAXPAYERS: NOTICE OF PROPERTY
 20 TAX INCREASE OF \$(fill in amount)." The remainder of the announcement shall
 21 consist of a reproduction of the "Resolution for Opt Out," including the amount that
 22 property taxes will be increased annually by the proposed opt out ~~and~~, the number
 23 of years that the excess tax levy is to be applied, and the total maximum dollar
 24 amount of taxes payable over the full term of the excess tax levy, a statement of
 25 the right to refer the decision of the board to a vote of the people as provided in
 26 this section. The secretary of revenue, in rules promulgated pursuant to chapter
 27 1-26, shall prescribe a uniform form to be used by the school district for notification
 28 of taxpayers as required by this section.

29 However, the requirements of subdivisions (3) and (4) shall be waived if:

- 30 (A) The opt out is for less than fifteen thousand dollars; or
- 31 (B) A copy of the resolution for opt out is mailed to every property taxpayer in the local
 32 governmental unit, by first class mail or bulk mail, within twenty days of the
 33 decision to opt out; and
- 34 (C) A copy of the resolution for opt out is printed in each official newspaper in the local
 35 governmental unit's boundaries.

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

4 ~~The opt-out decision may be referred to a vote of the people upon a resolution of~~
5 ~~the governing body of the school district or by a petition signed by at least five percent of~~
6 ~~the registered voters in the school district and filed with the governing body within twenty~~
7 ~~days of the first publication of the decision. The referendum election shall be held on or~~
8 ~~before October first of the year prior to the time the taxes are payable.~~

9 **Section 3. That § 10-12-43.1 be AMENDED:**

10 **10-12-43.1.** A school district may raise additional revenues for capital outlay fund
11 purposes through the imposition of an excess tax levy. A school district seeking to impose
12 an excess tax levy pursuant to this section is subject to the same opt out procedures and
13 requirements as provided in § 10-12-43. ~~The opt-out decision may be referred to a vote~~
14 ~~of the people in the same manner as provided in § 10-12-43.~~

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

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

23 **Section 4. That a NEW SECTION be added to chapter 10-12:**

24 The registered voters of a school district may refer a resolution adopted by the
25 board of a school district to impose an excess tax levy, pursuant to § 10-12-43 or 10-12-
26 43.1, by filing a petition with the business manager of the school district. The petition
27 must be signed by at least five percent of the registered voters of the school district, based
28 on the total number of registered voters of the school district, or signed by two thousand
29 registered voters in the school district, whichever is less, within twenty days of the
30 adoption of the resolution.

31 The ballot used for an excess tax levy election must clearly state the number of
32 years the excess tax levy is to be applied and the total maximum dollar amount of taxes
33 payable over the full term of the excess tax levy. The election must be conducted in the

1 same manner as a special election conducted pursuant to § 13-16-6.4, except that the
2 referendum election must be held on or before October first of the year prior to the year
3 the taxes are payable.

4 **Section 5. That a NEW SECTION be added to chapter 10-13:**

5 At least twenty-one days prior to a vote to impose an excess tax levy pursuant to
6 § 10-13-36, the governing body of a taxing district shall publish, in the legal newspaper
7 designated pursuant to § 13-8-10 and on the district's website, notice of its intent to vote
8 on the imposition of an excess tax levy.

9 For excess tax levies imposed by a district other than a county, the county director
10 of equalization shall mail or electronically transmit the notice to all property owners in the
11 district within the county's boundaries, and the district shall reimburse the county for
12 printing and mailing costs incurred by the county pursuant to this section.

13 For excess tax levies imposed by a county, the county director of equalization shall
14 mail or electronically transmit the notice to all property owners in the county.

15 The notice must include:

16 (1) The maximum amount under consideration in excess of the limitations applicable
17 to the taxing district;

18 (2) The amount allowed to be imposed without an excess tax levy;

19 (3) The date, time, and location of the public hearing at which the governing body will
20 vote to impose an excess tax levy;

21 (4) The estimated increase in property taxes in the district, per one hundred thousand
22 dollars of taxable value, as a result of the excess tax levy; and

23 (5) The intended use of moneys collected from the excess tax levy being considered.

24 The governing body of the district shall, at the public hearing, provide taxpayers
25 with an opportunity to comment on the excess tax levy.