

Opt-Out History & Legal Analysis

SDCL 10-13-35 • Property Tax Opt-Outs • 2020–2025

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This document presents the full voting record on SFSD property tax opt-outs, the legal framework under South Dakota law, the June 23, 2025 board resolution, and the statutory rescission window that may be available to a newly-seated board.

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Consecutive unanimous opt-out votes by incumbents

\$2.1M

Annual opt-out authorized (June 23, 2025 resolution)

10 yrs

Term of June 2025 opt-out authorization

WHAT IS A PROPERTY TAX OPT-OUT?

Under SDCL 10-13-35, South Dakota school districts may "opt out" of the statutory property tax levy limit, raising additional property tax revenue beyond what the formula would otherwise allow. Each opt-out requires a board resolution and, in some cases, is subject to a public referendum.

The three current incumbents on the ballot voted YES on five consecutive opt-outs. That is not emergency management of an unexpected crisis. That is a spending pattern.

Five consecutive yes votes. Each one raises your property taxes. None of them were preceded by a public audit of where the money was going.

VOTING RECORD

Year	Action	Incumbent Vote	Amount (Approx.)	Public Referendum?
2020	Opt-Out Approved	YES (unanimous)	Portion of ongoing	No
2021	Opt-Out Approved	YES (unanimous)	Portion of ongoing	No
2022	Opt-Out Approved	YES (unanimous)	Portion of ongoing	No
2023	Opt-Out Approved	YES (unanimous)	Portion of ongoing	No

2024	Opt-Out Approved	YES (unanimous)	Portion of ongoing	No
June 23, 2025	New Resolution: \$2.1M/yr, 10-yr term	YES (incumbents)	\$2.1M annually	Petition attempt failed

THE JUNE 23, 2025 RESOLUTION

On June 23, 2025, the board authorized a new opt-out of \$2.1 million annually for a ten-year term. A citizen petition effort to refer this opt-out to voters was subsequently attempted but did not succeed.

Under SDCL 10-13-35, there is a statutory rescission window. The July 15 deadline each year is the key date. The new board is inaugurated July 14. The question of whether a newly-seated board can rescind the prior board's opt-out — and what vote threshold applies (simple majority vs. two-thirds) — is a legal question Stuart Willett has flagged for consultation with ASBSD legal counsel or Davenport Evans.

Key dates: Board inaugurated July 14. Statutory rescission deadline July 15. One day. Legal counsel must be engaged immediately after the election.

COMMITMENT

- Vote NO on property tax opt-outs for Stuart's full four-year term.
- Immediately consult legal counsel on the July 15 rescission window upon election.
- Require a line-by-line audit BEFORE any future opt-out is even considered.
- Insist that any proposed opt-out be subject to a public referendum.