

# 2021 Approved Resolutions

107th Annual Convention  
September 13 - 14, 2021

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**South Dakota Association of County Commissioners**



# Undercover Counties

## **SDACC APPROVED RESOLUTIONS**

**Resolution #2021-1**

**DO PASS**

**To seek an act to minimize taxpayer costs when funding county infrastructure construction.**

**WHEREAS;** counties must construct buildings as specified in SDCL § 7-25-1 and 7-25-3 and

**WHEREAS;** counties are specifically required by SDCL § 16-6-7 and §16-12A-29.1 to provide adequate court facilities and are required by SDCL § 24-11-2 and SDCL § 24-11-3 to provide adequate jail facilities or provide for the housing of inmates and

**WHEREAS;** unlike other units of government in South Dakota, state law (SDCL Titles 7 and 10) only provides property tax as the sole source with which counties may fund such construction projects and

**WHEREAS;** in order to build necessary buildings, counties must usually levy additional property tax that places an added burden upon county residents for an extended period of time and

**WHEREAS;** this added property tax burden disproportionately taxes agricultural producers as compared to residents of municipalities and

**WHEREAS;** “Second penny” sales tax collections in many municipalities demonstrate that many counties could use a 1/2 cent sales tax to raise revenue for construction projects much more quickly than is possible with property tax and

**WHEREAS;** SDCL § 10-52-2.4 Which authorizes municipalities to levy a temporary “third penny” sales tax, establishes legal precedent for codifying the “sunsetting” of a temporary sales tax and

**WHEREAS;** Raising revenue for construction projects more quickly decreases the burden on tax payers by reducing the length of time an additional tax is imposed and by lowering the costs of financial bonds used to fund construction by shortening the term of said bonds and

**WHEREAS;** Jails across the state continue to age, the list of counties (Codington-2014, Codington-2017, Lake-2017, Walworth 2018, Lincoln-2020, Clay-2021) whose voters reject property tax-funded bonds to fund necessary jail construction continues to grow

**WHEREAS;** Sales tax spreads the tax burden among all residents of a county, not only among property owners,

**NOW THEREFORE BE IT RESOLVED;** that the South Dakota Association of County Commissioners pursue legislation to:

- authorize county commissioners to refer to voters of their county the imposition of up to a .5 percent county-wide temporary sales tax to issue bonds for the construction expenses of buildings and structures as described in SDCL § 7-25-1 and 7-25-3 and for facilities designed to reduce jail incarceration.
- authorize county commissioners of counties that wish to contribute funding for construction of buildings and structures as described in SDCL § 7-25-1 and 7-25-3 or for facilities designed to reduce jail incarceration, taking place in another county to use the provisions of this act to raise the funds to be contributed.
- authorize counties that currently have property tax bonds to fund the construction expenses of buildings and structures as described in SDCL § 7-25-1 and 7-25-3 or for facilities designed to reduce jail incarceration to apply the above provisions to issue sales tax funded bonds to pay an outstanding balance, or portion thereof, of property tax funded bonds.
- authorize county commissioners to refer to voters of their county the imposition of sales tax, as described above, in combination with property tax, to fund a bond for the construction expenses of renovation or replacement of buildings and structures as described in SDCL § 7-25-1 and 7-25-3 and for facilities designed to reduce jail incarceration.
- require that the ballot for the referendum of the aforementioned county-wide sales tax state the maximum possible term of the sales tax and clearly state the infrastructure to be built should voters approve.
- Require that a majority of votes cast approve the tax in order for the sales tax to be levied.
- Require that all revenues generated by the sales tax levied as described above be applied to payment of the bonds

issues to fund the infrastructure approved by the voters.

- Require that the tax cease (“sunset”) when either the bonds to fund the construction are paid or when the maximum possible term as approved by voters is reached.
- Require that any continuation of the tax beyond either the time when bonds to fund the construction are paid or when the maximum possible term as approved by voters is reached be approved by a majority of votes cast in a subsequent referendum held to determine whether or not the sales tax should continue.
- Cause any excess revenue received and remaining after the termination of such sales tax to be applied to the expenses of maintaining and operating the building or structure built using the provisions of this act.

**Resolution #2021-2**

**DO PASS**

**Require the State to work with the Counties to ensure that delinquent taxes are paid before ownership is transferred or the State taking possession of the property.**

**WHEREAS**, the State of South Dakota has the ability to "capture" abandoned properties without accepting ownership; and

**WHEREAS**, by doing this it creates a problem for local governments to collect delinquent taxes and the ability to abate the taxes; and

**WHEREAS**, there is no provisions in SD law that requires that delinquent taxes be paid, and by whom, when the State of South Dakota takes control of the property;

**NOW, THEREFORE, BE IT RESOLVED**, that legislation be pursued that would require the State of South Dakota to work with the owner of the property to ensure that all property and state taxes are paid in full prior to the State taking control of the property; and

**BE IT FURTHER RESOLVED**, that the State of South Dakota require that all delinquent taxes are paid prior to the State transferring ownership of the abandoned property to a different party; and

**BE IT FURTHER RESOLVED**, that the state of south Dakota be held responsible for the delinquent property and state taxes if they do not require the new owner of the property to pay the taxes prior to transfer of title, permit or lease.

**Resolution #2021-3**

**DO PASS**

**Requesting the Department of Revenue exclude fingerprinting fees from sales tax**

**WHEREAS**, Sheriff’s offices across the State of South Dakota provide fingerprinting services to residents;

**WHEREAS**, it is a requirement of many occupations to get fingerprinted;

**WHEREAS**, Sheriff’s offices are currently required to collect state sales tax on fingerprinting services;

**THEREFORE, BE IT RESOLVED**, by the South Dakota Association of County Commissioners that the Department of Revenue exempt fingerprinting services from state sales tax.

**Resolution #2021-4**

**DO PASS**

**A RESOLUTION IN SUPPORT OF AMENDING CURRENT SOUTH DAKOTA STATE LAW 7-18A-16 TO ESTABLISH CLEAR GUIDANCE FOR THE TIME OF FILING REFERENDUM PETITION**

**WHEREAS**, SDCL § 7-18A-16 states “A petition to refer an ordinance or resolution subject to referendum may be filed with the auditor within twenty days after its publication. The filing of such a petition shall require the submission of any such ordinance or resolution to a vote of the qualified voters of the county for its rejection or approval.”; and

**WHEREAS**, the plain language in SDCL § 7-18A-16 creates ambiguities on which publication date is the triggering event to use to calculate the twenty-day period; and

**WHEREAS**, per SDCL § 17-2-2.1 Requirements for a legal newspaper, no publication is a legal newspaper for publishing legal and other official notices unless... if the publication is a daily, is distributed at least five days each week, or if not a daily, is distributed at least once each week for at least fifty weeks each year; and

**WHEREAS**, Pennington County has designated 3 legal newspapers under SDCL § 7-18-3, of which 1 is a daily publication and the remaining 2 are deemed weekly publications; and

**WHEREAS**, Pennington County Board of Commissioners Meeting minutes are published in the Rapid City Journal on Wednesday (daily) and in the Hill City Prevailor and the Pennington County Courant on Thursday (weekly); and

**WHEREAS**, clarity is sought in SDCL § 7-18A-16 to identify which publication date is the triggering event that starts the calculation of the twenty-day period within which the petition to refer must be filed with the Auditor; and

**WHEREAS**, by inserting the term **completed** into SDCL § 7-18A-16, it would be clear the last legal newspaper to publish would be the date of completed publication.

**NOW, THEREFORE, BE IT RESOLVED** by the South Dakota Association of County Commissioners that SDCL § 7-18A-16 be amended to read as follows:

“A petition to refer an ordinance or resolution subject to referendum may be filed with the auditor within twenty days after its **completed** publication. The filing of such a petition shall require the submission of any such ordinance or resolution to a vote of the qualified voters of the county for its rejection or approval.

**Resolution #2021-5** **DO PASS**  
**SUPPORTING LEGISLATION TO LOWER LOCAL COSTS ASSOCIATED WITH EXPANDING WATER AND WASTEWATER INFRASTRUCTURE**

**WHEREAS**, the cost of water and wastewater infrastructure adds considerable costs to the affordability of housing;

**WHEREAS**, the State of South Dakota will receive \$974 million through the Federal ARPA program, which can fund water and wastewater infrastructure;

**WHEREAS**, many South Dakota communities are either at or approaching debt capacity;

**THEREFORE BE IT RESOLVED**, by the South Dakota Association of County Commissioners to support legislation that establishes a new state grant program(s), funded by American Rescue Plan Act (ARPA) funds, to incentivize new housing stock by reducing local costs associated with expanding water and wastewater infrastructure.

**Resolution #2021-7** **DO PASS**  
**SUPPORTING LEGISLATION TO PROHIBIT JUVENILE DETENTION FACILITIES TO BE USED TO HOLD A MINOR WHO MEETS THE CRITERIA OF SDCL 27A-15-20 FOR INVOLUNTARY COMMITMENT**

**WHEREAS**, juvenile detention facilities are designed for juveniles who are charged with a crime;

**WHEREAS**, youth who are on an involuntary commitment are struggling with mental health and have not committed a crime;

**WHEREAS**, youth with mental health issues should not be confined with youth who are held within the legal system due to pending criminal charges;

**THEREFORE BE IT RESOLVED**, by the South Dakota Association of County Commissioners to support legislation that would prohibit youth on an involuntary mental health commitment to be placed in a juvenile detention facility.

## SDACC POLICY STATEMENTS

1. SDACC supports and endorses changes in state law that provides local governmental bodies the authority to create and enforce ordinances that act as an immediate deterrent against contamination of public groundwater resources. *(originally passed 1991, amended 2018)*
2. SDACC will continue to support the South Dakota Noxious Weed Law that prevents or limits the growth of all noxious weeds, including on public lands. In addition, it encourages cooperation between Weed and Pest agencies at all levels, including NRCS, and recommends NRCS initiate a cost share program to provide for chemicals for control of noxious weeds throughout the state of South Dakota. *(originally passed 1991, amended 2018)*
3. SDACC supports the inclusion of Counties in the Federal Land planning process to protect from economic damage, and that sufficient input from all potential impacted parties is allowed. In addition, when any personal or private property is taken for the use of any level of Government, that a Takings Implication Assessment (TIA), be completed prior to the takings and injured parties be fairly and expeditiously compensated. *(originally passed 1991, amended 2018)*
4. SDACC supports federal Indian policy that reduces conflict between tribal, state and local governmental entities, and encourages Congress to establish an ongoing, federal, non-judicial conflict resolution procedure to resolve intergovernmental disputes. *(originally passed 1991, amended 2018)*
5. SDACC goes on record as opposing the combining of any counties within the state of South Dakota by state mandate. *(1991)*
6. SDACC encourages the South Dakota legislature to examine the costs of problems of alcohol abuse and implement a tax on liquor sales to assist counties with jails, law enforcement and detox centers. *(1994)*
7. SDACC at each meeting of the members of the Association and affiliated county groups shall conduct an evaluation of the meeting's content, the facility, and any other information as determined by the organization's executive board to be used as a guide for planning future meetings. *(1996)*
8. SDACC supports ongoing monitoring of and suggested remedies to problems created by counties as a result of the property tax relief program enacted in 1995 that froze county tax levy levels, and limited future growth. *(originally passed 1996, amended 2018)*
9. SDACC opposes any limitations or restrictions on the powers of county governments to develop or implement land use regulations such as zoning, and will actively and vigorously work to protect counties' right to appeal any adverse rulings as they pertain to counties' zoning ordinances. *(originally passed 1997, amended 2018)*
10. SDACC continues to support planning & zoning legislation that will encourage uniformity between county and municipal planning and zoning procedures and reduce ambiguities within the adoption process, enabling counties to more effectively adopt and administer their comprehensive plan, and zoning regulations. *(originally passed 1998, amended 2018)*
11. SDACC supports DPS (Department of Public Safety, State 911 Coordinating Board) concepts and endeavors including the repeal of the sunset clause of the 911 surcharge and future measures that enhance PSAP,s (Public Safety Answering Points). *(originally passed 1999, amended 2018)*
12. SDACC opposes any legislation that would increase the assessment per head for cattle or sheep or any other changes in county assessment factors that would increase or substantially shift the annual assessments currently being paid by the individual counties for funding animal damage control, including an assessment based on land area. *(2001)*
13. SDACC supports the right of each county to make their own decisions on Right of Way issues (ROW) as they deem necessary. *(originally passed 2001, amended 2018)*

14. SDACC supports funding initiatives to upgrade the statewide emergency radio system to Project 25 (P25). *(originally passed 2001, amended 2018)*
15. SDACC supports legislation that would permanently resolve the wireless telecommunications taxation issue by appropriately taxing wireless telecommunications companies and distributing the tax revenues in such a manner that counties will receive at least as much as they would have received under the previous central assessment process with continuing growth based on service growth and inflation. *(2001)*
16. SDACC supports legislation that would allow counties to retain all sales tax revenue that is collected on county fairground operations. This revenue would be budgeted for maintaining and improving facilities on the fair grounds. *(2002)*
17. SDACC supports elimination of the requirement that county auditors must levy an additional tax levy each year for the school portion of any taxes that were abated by county commissioners during the previous tax year, as the original tax was determined to be illegal or not collectible in some manner in order to be abated. *(2002)*
18. SDACC opposes any legislation that would further restrict counties' allowable un-obligated cash balances or reserves or that would require the preparation of detailed financial statements and cash balances at times other than the end of a county's fiscal year. *(2003)*
19. SDACC supports a sales and use tax on goods and services and a gross receipts tax on lodging, alcoholic beverages, prepared food and admissions provide outside the corporate boundaries of municipalities to be implemented in the same corresponding manner as the municipal taxes. *(2003)*
20. SDACC supports any effort to repeal the property tax cap. *(2004)*
21. SDACC supports the state's agricultural industry's efforts to meet the challenges and demands of an ever-changing marketplace. *(2004)*
22. SDACC supports that the State of South Dakota fund initiatives to mitigate emerald ash borer infestation. *(2018)*
23. SDACC supports South Dakota Codified Law be amended to provide full state funding for human service agency transportation to offset the costs to local public and non-profit transportation systems. *(2018)*
24. SDACC supports South Dakota Codified Law be amended to provide funding for mental health, education, intervention, **diversion of youth and adult low-level offenders**, and treatment programs to prevent and deter drug and alcohol abuse, also support the development of Triage Centers by eliminating regulatory barriers. *(2018) (amended 2019, amended 2021)*
25. South Dakota Codified Law be amended to fund and support affordable housing programs across South Dakota. We support legislation that expands workforce housing opportunities to provide opportunities for individuals and families to access safe, reasonably priced dwellings. *(2018)*
26. SDACC supports additional Mental Health services in South Dakota *(2019)*