

2018 Approved Resolutions and Policy Statement Changes

104th Annual Convention
September 10 - 11, 2018

**South Dakota Association of County
Commissioners**

“Counties Rally”

SDACC APPROVED RESOLUTIONS

Resolution #2018-1
PASS

DO

Authorization of County Sales Tax to Fund the Construction and Renovation of County Courthouses and Jails and Regional Jails

WHEREAS; The US and South Dakota Constitutions state that our Country and State exist to “establish justice” and

WHEREAS; The proper functioning of justice and its due process require adequate court and jail facilities and

WHEREAS; Counties are required by SDCL § 16-6-7 and §16-12A-29.1 to provide adequate court facilities and are required by SDCL § 24-11-2 to provide adequate jail facilities or house inmates under the provisions of SDCL § 24-11-3 and

WHEREAS; This situation results in de facto regional jails located throughout South Dakota that must at times be renovated or replaced to accommodate growing inmate populations in accordance with § 24-11-23 and

WHEREAS; This can result in a disproportionate burden upon the county hosting a de facto regional jail for the construction expenses of renovation or replacement of a jail and

WHEREAS; SDCL § 7-25-3 requires that capital purchases, including for courthouse and jail buildings, greater than can be paid for out of the annual revenue of the county for the current year, the revenue from the special levy provided by § 7-25-1, together with the amount of any debt service fund theretofore provided for such purpose, must be put to a vote of the residents of the county and

WHEREAS; State Law provides property tax as the only source for a county to fund such projects and

WHEREAS; Lack of authority for counties to levy sales tax limits the ability of counties to fund legally mandated court and jail construction,

NOW THEREFORE BE IT RESOLVED; that the County Commissioners of the Sioux Valley District request 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 countywide temporary sales tax to issue bonds for the construction expenses of renovation or replacement of adequate court facilities as required by SDCL § 16-6-7 and §16-12A- 29.1 and/or adequate jail facilities as required by SDCL § 24-11-2 and § 24-11-23,
- 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 court facilities and/or jail facilities as required by law.
- authorize county commissioners of counties that house inmates in other counties, as permitted by SDCL § 24-11-3, to refer to voters of their county the imposition of up to a .5 percent countywide temporary sales tax to proportionately share with another county/other counties the construction expenses to renovate or replace a jail facility in accordance with standards addressed in SDCL § 24-11-23,
- authorize counties that currently have property tax bonds to fund the renovation or

replacement of adequate court facilities and/or jails to apply the above provisions to issue sales tax funded bonds to pay an outstanding balance, or portion thereof, of property tax funded bonds.

- 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 jail of the county in which the court or jail facilities were renovated or replaced.

Resolution #2018-15

DO

PASS

Resolution in support of allocation of fund to the Bridge Improvement Grant Fund Program

WHEREAS, The State of South Dakota closed its 2018 budget year with a \$16.9 million surplus; and

WHEREAS, Due to sound financial decisions and planning by the State of South Dakota, budget surpluses have been realized in many recent years; and

WHEREAS, The South Dakota Department of Transportation (SDDOT) provides technical design guidance, and construction engineering support services for the approximately 4000 bridges that are on the local government and county systems in South Dakota; and

WHEREAS, The Bridge Improvement Grant (BIG) program was created by the 2015 legislative session in Senate Bill 1 (SB 1); and

WHEREAS, In 2016/2017 there were 70 Bridge Improvement Preliminary Engineering Grants awarded; 31 Bridge Improvement Preservation Grants awarded, and 9 Bridge Improvement Rehab/Replacement Grants awarded, it is still a small percentage of the overall need; and

NOW, THEREFORE, Be it resolved that the South Dakota Association of County Commissioners respectfully requests and is support of the State of South Dakota diverting 25 percent (25%) of future budget surpluses to the SDDOT Bridge Improvement Grant Program to help all of the South Dakota counties and cities participating in the program a better chance of replacing critical bridges at a faster rate for the overall safety of our citizens.

SDACC POLICY STATEMENTS

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)*

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)*

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)*

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)*

SDACC goes on record as opposing the combining of any counties within the state of South Dakota by state mandate. *(1991)*

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)*

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)

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)*

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)*

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)*

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)*

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)

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)*

SDACC supports funding initiatives to upgrade the statewide emergency radio system to Project 25 (P25). *(originally passed 2001, amended 2018)*

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)

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)

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)

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)

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)

SDACC supports any effort to repeal the property tax cap. (2004)

SDACC supports the state's agricultural industry's efforts to meet the challenges and demands of an

ever-changing marketplace. (2004)

SDACC supports that the State of South Dakota fund initiatives to mitigate emerald ash borer infestation. (2018)

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)

SDACC supports South Dakota Codified Law be amended to provide funding for education, intervention, and treatment programs to prevent and deter drug and alcohol abuse. (2018)

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)

SDACC POLICY STATEMENTS DELETION AND CORRECTION LIST

Deleted effective 09-20-2006 – Originally adopted in 1991

SDACC endorse the policy that all legislation affecting county budgets become effective January first following a legislative session, with the exception of emergency legislation. **(You can also ask for delayed implementation. I would suggest this be moved to the delete list. – Bob Wilcox)**

Deleted effective 09-20-2006 – Originally adopted in 1993

The Intermodel Surface Transportation Efficiency Act of 1991 (ISTEA) prohibits counties from maintaining a total balance of more than three years annual apportionments and from transferring any such funds to another county. Therefore, the SDACC requests a return to the prior regulations allowing South Dakota counties to loan or borrow such apportioned funds. **(I would suggest this be moved to the delete list. This Act has been replaced with a new program which is called SAFETEA-LU. The emphasis is on**

highway safety and was implemented by 109th Congress in Aug 2005. – Bob Wilcox)

Deleted effective 09-20-2006 – Originally adopted in 1995

SDACC supports the SDACC's participation in the Juvenile Justice and Delinquency Prevention Act grant program for housing and transporting juvenile offenders. **(This grant program has been closed. I would suggest this be moved to the delete list. – Bob Wilcox)**

Deleted effective 09-20-2006 – Originally adopted in 1997

SDACC will assist and support the Association of State's Attorneys in their efforts to amend SDCL 23A-40-7 to permit counties the ability to contract with attorneys licensed to practice law in South Dakota for the representation of indigent persons. **(This can be done now, I would suggest move it to delete list. – Bob Wilcox)**

Deleted effective 09-20-2006 – Originally adopted in 1998

SDACC will actively work with the Association of States Attorneys, the UJS, the legislature and the Governor to develop solutions to the rapidly escalating costs of providing legal representation to indigent persons, including imposing limits on the number of attorneys and expert witnesses and the fees that they are paid, establishing a statewide public defender's office or otherwise capping the total amount of indigent legal costs which counties are required to pay annually both individually and collectively. **(I would suggest this would go to the delete list. – Bob Wilcox)**

Correction effective 09-20-2006 – Originally adopted in 2002

SDACC supports the granting of variances or special use permits, under county zoning ordinances that include procedures and guidelines for granting such variances or special use permits and that such actions are administrative functions, not legislative functions, pursuant to SDCL 7-18A-15.1, and are, therefore, not referable to a public vote. (Deleted Hutchinson and Bon Homme County Commissioners – per Resolutions Committee)

Deleted effective 09-20-2006 – Originally adopted in 2003

SDACC supports the position that the Board of County Commissioners should make the determination of whether to file and collect liens for the costs of prisoner confinement or whether to waive in whole or in part the filing and collection of said liens, as contemplated by SDCL 24-11-45 and 24-11-45.1, and opposes the issuance of blanket

waivers by judiciary. (The statute is clear “If, after considering the prisoner’s net income, net worth, number of dependents, and existing obligations, the judge who sentenced the prisoner to jail determines that the prisoner is unable to pay, the judge may waive all or part of the payment for the cost of the inmate’s confinement” I would suggest this be moved to the delete list. – per Bob Wilcox)

SDACC POLICY STATEMENT CHANGES – Changes approved September 11, 2018

1. ~~SDACC continues to support the “Right to Know” legislation for the protection of all emergency response personnel who deal with hazardous materials. (1991) Remove~~
2. ~~SDACC continues to oppose all legislative efforts to repeal or limit the county wheel tax option as is currently allowed in SDCL 32-5A. (1991) Remove - Covered by Senate Bill 1~~
3. 1. ~~SDACC supports and endorses changes in state law that would enable the enactment of local ordinance authority with enforcement powers to provide an immediate deterrent against contamination of public groundwater resources. (1991) Reword: 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.~~
4. ~~SDACC supports ongoing efforts to acquire legislative support for the use of Federal Aid Secondary (FAS) Funds for periodic resurfacing and resealing of Federal Aid Secondary roads. (1991) Remove - Covered by Senate Bill 1~~
5. 2. ~~SDACC support and encourage cooperation between the county weed supervisor, the state weed supervisor, and the federal NRCS office for the control of noxious weeds on lands receiving federal subsidies; specifically that the NRCS Office initiate a cost share program to provide chemicals for control of noxious weeds throughout the state of South Dakota. (1991) Combine with Policy Statement #8 – Reword: 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.~~
6. ~~SDACC supports legislation to increase the state gas tax, vehicle registration fees, or motor vehicle excise tax to be distributed to the counties. (1991) Remove - Covered by Senate Bill 1~~
7. ~~SDACC supports and encourages changes in state laws or rules to permit an ambulance driver and one Emergency Medical Technician (EMT) to staff an ambulance in non-emergency transfer situations. (1991) Remove~~
8. ~~SDACC will continue to support the South Dakota Noxious Weed law requiring that Canada thistle, Russian Knapweed and Leafy Spurge be controlled because of the potential danger involved with the establishment and spread of these weeds. Others on the list are perennial sow thistle, hoary cress, purple loosestrife, salt cedar. Definition (5) “Control” the prevention or limiting of the growth, spread, or development of weeds or pest”. (1991) Combine with Policy Statement #5~~

9. 3. ~~County governments demand their rights under federal regulation to become involved in the federal land use planning process and begin to protect their counties from economic damage; and county governments require the input of land owners, permit holders, lessees and all other people who are impacted or potentially impacted by the federal land use planning process. (1991) Combined with Policy Statement # 10 –~~
Reword: 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.
10. ~~Counties shall defend and demand the protection of all mandated rights to protect personal and private property rights; and when any personal or private property is taken for the good of the county by any branch of government, the county government must require by law that a Takings Implication Assessment (TIA) be completed prior to the takings and just compensation be paid expeditiously to the injured party. (1991)~~
Combined with Policy Statement # 9
11. 4. ~~SDACC supports that federal Indian policy must work to reduce conflict among tribal, state and local governmental problems, and that Congress establish an ongoing, federal, non-judicial conflict resolution procedure to remedy intergovernmental conflict. (1991)~~
Reword: 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.
13. ~~SDACC will form a coalition with other entities in the state to implement the increase of vehicle registration fees in South Dakota to ensure a continuous funding source for construction and maintenance of our county/state highway system. (1993) Remove - Covered by Senate Bill 1~~
16. 8. ~~SDACC will actively work with the legislature and the Governor to provide solutions to any problems that may arise from the needed property tax relief program. (1996)~~
Combine with Policy Statement #44 – Reword: 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.
17. 9. ~~SDACC supports actions to actively and vigorously protect counties' right to appeal any adverse ruling as it pertains to counties' authority to zone animal confinement operations. (1997) Combine with Policy Statements #19 & 30 –~~
Reword: 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.
18. ~~SDACC will support the full participation of South Dakota in the federal welfare program as a means to serve working families to protect our children and to offer property tax relief to the taxpayers of South Dakota. (1997) Remove~~
19. ~~SDACC opposes any limitations or restrictions on the powers of county governments to develop or implement land use regulations such as zoning ordinances. (1998)~~
Combine with Policy Statements #17 & 30

- ~~20.10.~~ 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.** ~~and subdivision regulations.~~ (1998) **Reword**
- ~~21.11.~~ SDACC ~~opposes any attempt to mandate consolidation of E-911 service centers and any attempt to remove E-911 surcharge revenue from county government.~~ (1999) **Combine with Policy Statements #27 & 41 – Minnehaha Resolution MC17-27 – Reword: 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).**
- ~~22.~~ ~~South Dakota Association of County Commissioners supports the position that County Clerk of Courts offices be required to remain open a minimum of four hours per day for a five day work week excluding holidays. The SDACC should work with the UJS and the legislature’s Joint Appropriations Committee to provide adequate funding to have the Clerk of Courts office open a minimum of 4 hours per day for a 5 day work week and to allow counties to contract with the UJS, if necessary, to provide this level of service.~~ (2001) **Remove**
- ~~23.~~ ~~SDACC supports legislation that would require operators of sand, gravel and other construction aggregate mines to sign a haul road maintenance agreement with the affected local jurisdictions prior to commencement of hauling operations.~~ (2001) **Remove**
- ~~25.13.~~ SDACC supports legislation, which defines authorized activities and specifically prohibits unauthorized activities within public highway rights of way. (2001) **Reword: SDACC supports the right of each county to make their own decisions on Right of Way issues (ROW) as they deem necessary.**
- ~~26.14.~~ SDACC supports the concept of developing a common statewide radio system for emergency and public safety communications and will encourage implementation of such a system if the selected radio platform is compatible with existing equipment and allows maximum utilization to be made of existing hardware and equipment so costs are held to a practical level. (2001) **Replace with Minnehaha Resolution – MC17-26 – Reword: SDACC supports funding initiatives to upgrade the statewide emergency radio system to Project 25 (P25)**
- ~~27.~~ ~~SDACC supports the mandatory implementation and operation of minimum technical, operational and procedural standards for public safety answering points (PSAPs) only if a 5 year timetable for implementation is provided and an additional specific source of funds for implementation are made available.~~ (2001) **Combine with Policy Statements #21 & 41 – Minnehaha Resolution MC17-27**
- ~~28.~~ ~~SDACC supports legislation to require that all of the civil penalties collected for overweight vehicles be deposited in the county treasury for use by the county Road and Bridge Fund.~~ (2001) **Remove**
- ~~30.~~ ~~SDACC supports the granting of variances or special use permits, under county zoning ordinances that include procedures and guidelines for granting such variances or special use permits and that such actions are administrative functions, not legislative functions, pursuant to SDCL 7-18A-15.1, and are, therefore, not referable to a public~~

~~vote. (2002) Combine with Policy Statements #17 & 19~~

31. ~~SDACC encourages the Governor and the Legislature to assist Pennington County and Rapid City in their continuing efforts to retain a major employer in western South Dakota and to assist financially the "Save Ellsworth" committee that has been working hard for many years to keep Ellsworth Air Force Base a viable military facility. (2002)~~
~~Remove~~
34. ~~SDACC supports the requirements of the Help America Vote Act of 2002 and urges the federal government to fully fund its financial commitment contained in the Act to assist local government in complying with the provisions of the Act. (2003)~~
~~Remove~~
39. ~~SDACC requests that the South Dakota Department of Transportation review and change the state policy on road closures due to adverse weather conditions. (2006)~~
~~Remove~~
40. ~~SDACC encourages all counties to enact a wheel tax as a viable revenue source pursuant to SDCL 33-5A. (2007)~~
~~Remove - Covered by Senate Bill 1~~
- ~~SDACC continues to support the effort of the State 9-1-1 Stakeholders Group to increase the 9-1-1 fees pursuant to SDCL 34-45-4. (2007)~~
~~Combine with Policy Statements #21 & 27 – Minnehaha Resolution MC17-27~~
42. ~~SDACC opposes mandatory State and Federal Animal Identification but does support voluntary implementation. (2007)~~
~~Remove~~
43. ~~SDACC calls upon the South Dakota Governor and State Legislators to implement the following changes to bring harmony within the livestock industry:~~
- ~~1) Brand Board representation and brand protection for all producers, processors, marketing agents and lending institutions through the revision at the current South Dakota State Brand Board by providing representation through geographical districts.~~
 - ~~2) Seek the most thorough and efficient method of administering South Dakota Brand law including the use of private organizations or enterprises. (2008)~~
- ~~Remove~~
44. ~~SDACC requests the South Dakota State Legislature to permit South Dakota Counties to increase their previous tax request by CPI or 3%, whichever is greater. (2010)~~
~~Combine with Policy Statement #16~~

