

STATE OF SOUTH DAKOTA



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MARTY J. JACKLEY
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CHIEF DEPUTY

October 17, 2025

RECEIVED

OCT 17 2025

SD Secretary of State

Honorable Monae L. Johnson
Secretary of State
500 E. Capitol
Pierre, SD 57501

RE: Draft Attorney General's Statement – Proposed Amendment to the South Dakota Constitution to repeal real property taxes and replace them with a "retail transaction" tax.

Dear Secretary Johnson,

Enclosed is a copy of a proposed Initiated Constitutional Amendment, in draft form, that the sponsor submitted to this Office. In accordance with state law, I hereby file the enclosed *draft* Attorney General's Statement for the purposes of receiving public comment on the same.

By copy of this letter, I am providing a copy of the *draft* Statement to the sponsor.

Very truly yours,

A handwritten signature in black ink, appearing to read "Marty Jackley".

Marty J. Jackley
ATTORNEY GENERAL

MJJ/dd
Enc.

Cc/encl: Mike Mueller
Julie Frye-Mueller
Matt Smith
John McCullough – Legislative Research Council

Filed this 17th day of

October 2025

A handwritten signature in black ink, appearing to read "Monae L. Johnson".

SECRETARY OF STATE

RECEIVED

OCT 17 2025

CONSTITUTIONAL AMENDMENT
DRAFT ATTORNEY GENERAL'S STATEMENT SD Secretary of State

Title: An Amendment to the South Dakota Constitution to repeal real property taxes and replace them with a "retail transaction" tax.

Explanation:

Currently, all real property, like land; homes; rental properties; and commercial buildings, are taxed according to a formula set by state law that accounts for the value of the property and its use. Those taxes are collected by the county treasurers and distributed to the counties; cities and towns; school districts; and other political districts, like road or drainage districts, in the county. Those tax funds are the majority of the yearly budgets for those entities.

This Amendment seeks to repeal this property tax scheme and replace it with a tax "on each retail transaction." For each "retail transaction" of \$15 or more, a flat tax of \$1.50 is assessed. For each "retail transaction" less than \$15, a 10% tax is assessed. The amount of a "retail transaction" is based on the "final purchase price" of the transaction. This Amendment does not replace or impact the assessment or collection of sales and use taxes or excise taxes.

This Amendment requires the Legislature to create a designated fund for collecting and depositing these retail taxes. The Legislature must also create a system for retailers to collect and submit the assessed taxes.

This Amendment will need legislative or judicial clarification. Filed this 17th day of

October 2025

Monae L. Johnson

SECRETARY OF STATE

September 10, 2025

Submitted by both email and U.S. Mail

Re: Initiated Constitutional Amendment

Attorney General Marty Jackley
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Director John McCullough, LRC
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Honorable Monae Johnson
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Filed this 17th day of

October 2025



SECRETARY OF STATE

Greetings:

Below is a summary of a proposed Initiated Constitutional Amendment for South Dakota. Immediately after that summary is the full amendment in final form.

The goal of this amendment is to abolish property taxes and replace them with an alternative retail transaction tax.

Currently the county treasurers collect real property taxes for funding of public schools, counties, municipalities, and several other political subdivisions across South Dakota.

This initiated amendment will essentially eliminate real property taxes from all categories of real property for these political subdivisions' ordinary and capital expense funding. A maximum \$1.50 retail transaction tax OR 10% of small purchases up to \$15.00 will be imposed on the pre-sales tax transaction. This retail transaction tax is calculated to totally replace real property tax revenue as the new funding source and can only be used for the ordinary and capital expenses of existing political subdivisions currently funded by property taxes. This retail transaction tax does not affect sales tax.

County treasurers and the State Treasurer must work together to ensure that each political subdivision budget is funded through this replacement revenue source. Since this replacement revenue will only cover ordinary and capital expenses of each political subdivision, then additional special assessments must be handled separately as an additional taxation to that respective political subdivision as stated in Sections 2 and 5 of Article XIII of the South Dakota Constitution.

This new funding source will be evaluated each year by the Legislature to increase the tax up to \$0.05 in the ensuing year only if necessary.

In accordance with SDCL 12-13-25.1 we submit the following proposed Initiated Constitutional Amendment in final form:

BE IT ENACTED BY THE PEOPLE OF SOUTH DAKOTA:

Section 1. That Article VIII, § 9 of the Constitution of the State of South Dakota, be AMENDED:

§ 9. The lands mentioned in this article shall be leased for pasturage, meadow, farming, the growing of crops of grain and general agricultural purposes, and at public auction after notice as herein before provided in case of sale and shall be offered in tracts not greater than one section. All rents shall be payable annually in advance, and no term of lease shall exceed five years, nor shall any lease be valid until it receives the approval of the Governor.

Provided, that any lessee of school and public lands shall, at the expiration of a five year lease, be entitled, at his option, to a new lease for the land included in his original lease, for a period of time not exceeding five years, without public advertising, at the current rental prevailing in the county in which such land is situated, at the time of the issuance of the new lease. The commissioner of school and public lands shall notify by registered mail each lessee or assignee on or before the first day of November first preceding the expiration of his lease that such lease will expire.

Such option shall be exercised by the lessee by notifying the commissioner of school and public lands by registered mail, on or before the first day of December first preceding the expiration of his lease describing the lands for which he desires a new lease, in the same manner as the same is described in his original lease.

~~The Legislature may provide by appropriate legislation for the payment of local property taxes by the lessees of school and public lands.~~

Section 2: That Article VIII, § 15 of the Constitution of the State of South Dakota, be AMENDED:

§ 15. The Legislature shall make such provision by general taxation and ~~by authorizing the school corporations to levy such additional taxes as with the income from the permanent school fund shall secure a thorough and efficient system of common schools throughout the state. The Legislature is empowered to classify properties within school districts into separate classes for purposes of school taxation. Taxes shall be uniform on all property in the same class.~~

Section 3. That Article XI, § 1 of the Constitution of the State of South Dakota, be AMENDED:

§ 1. ~~The Legislature shall provide for an annual tax, sufficient to defray the estimated ordinary expenses of the state for each year, not to exceed in any one year two mills on each dollar of the assessed valuation of all taxable property in the state, to be ascertained by the last assessment made for state and county purposes.~~

~~And whenever it shall appear that such ordinary expenses shall exceed the income of the state for such year, the Legislature shall provide for levying a tax for the ensuing year, sufficient, with other sources of income, to pay the deficiency of the preceding year, together with the estimated expenses of such ensuing year.~~
And for For the purpose of paying the public debt, the Legislature shall provide for levying a tax annually, sufficient to pay the annual interest and the principal of such debt within ten years from the final passage of the law creating the debt; provided, that the annual tax for the payment of the interest and principal of the public debt shall not exceed in any one year two mills on each dollar of the

assessed valuation of all taxable property in the state, as ascertained by the last assessment made for the state and county purposes.

Provided, that for the purpose of establishing, installing, maintaining and operating a hard fiber twine and cordage plant at the state penitentiary at Sioux Falls, South Dakota, the Legislature shall provide for a tax for the year 1907 of not to exceed one and one-half mills on each dollar of the assessed valuation of all taxable property in the state, as ascertained by the last assessment made for state and county purposes.

Section 4. That Article XI, § 2 of the Constitution of the State of South Dakota, be AMENDED:

§ 2. To the end that the burden of taxation may be equitable upon all property, and in order that no property which is made subject to taxation shall escape, the Legislature is empowered to divide all property including moneys and credits as well as physical property into classes and to determine what class or classes of property ~~shall be~~ are subject to taxation ~~and what property, if any, shall not be subject to taxation,~~ under the limitations of this section. Taxes shall be uniform on all property of the same class, and shall be levied and collected for public purposes only. Taxes may be imposed upon any and all property, including privileges, franchises, and licenses to do business in the state, except that real property taxes may only be imposed as provided in section 1 of this Article and sections 2 and 5 of Article XIII. Gross earnings and net incomes may be considered in taxing any and all property, and the valuation of property for taxation purposes shall never exceed the actual value thereof. The Legislature is empowered to impose taxes upon incomes and occupations, and taxes upon incomes may be graduated and progressive and reasonable exemptions may be provided.

Section 5. That Article XI, § 4 of the Constitution of the State of South Dakota, be AMENDED:

§ 4. The Subject to the limitations on taxation provided in section 2 of this Article, the Legislature shall provide for taxing all moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise; and also for taxing the notes

and bills discounted or purchased, moneys loaned and all other property, effects or dues of every description, of all banks and of all bankers, so that all property employed in banking shall always be subject to a taxation equal to that imposed on the property of individuals.

Section 6. That Article XI, § 5 of the Constitution of the State of South Dakota, be AMENDED:

§ 5. The property of the United States and of the state, county and municipal corporations, both real and personal, shall be exempt from taxation; ~~provided, however, that all state owned lands acquired under the provisions of the rural credit act may be taxed by the local taxing districts for county, township and school purposes, and all state owned lands, known as public shooting areas, acquired under the provisions of § 25.0106 SDC 1939 and acts amendatory thereto, may be taxed by the local taxing districts for county, township and school purposes in such manner as the Legislature may provide.~~

Section 7. That Article XI, § 10 of the Constitution of the State of South Dakota, be AMENDED:

§ 10. The Legislature may vest the corporate authority of cities, towns and villages, with power to make local improvements by special taxation of contiguous property or otherwise. For all corporate purposes, all municipal corporations may be vested with authority to assess and collect taxes, subject to the limitations on taxation provided in section 2 of this Article; but such tax shall be uniform in respect to persons and property within the jurisdiction of the body levying the same.

Section 8. That Article XI of the Constitution of the State of South Dakota, be amended with a NEW SECTION:

There is hereby imposed a tax on each retail transaction as provided in this section. For each retail transaction with a final purchase price of fifteen dollars or more, the tax imposed is one dollar and fifty cents. For each retail transaction with a final purchase price of less than fifteen dollars, the tax imposed is ten percent of the final purchase price. The final purchase price of a retail transaction

does not include any applicable state or local sales and use tax. The Legislature shall establish, by law, the manner in which a retailer must remit the tax imposed by this section.

The Legislature may annually increase, by law, the rate of the tax imposed by this section by the lesser of five cents or an amount estimated to provide the moneys necessary to replace the revenue foregone from the prohibition on real property taxes under section 2 of this Article.

The Legislature shall establish, by law, a property tax replacement fund into which the proceeds from the tax required in this section must be deposited. The moneys in this fund may be used only by political subdivisions of this state and only for their ordinary and capital expenses, except that the Legislature may make an annual appropriation from the fund to defray the cost of collecting the tax authorized under this section and to provide for the administration of the fund.

The Legislature shall establish, by law, the manner in which the moneys from the tax required by this section are distributed to political subdivisions of this state for their ordinary and capital expenses.

Section 9. That Article XI, § 7 of the Constitution of the State of South Dakota, be REPEALED.

~~All laws exempting property from taxation other than that enumerated in §§ 5 and 6 of this article, shall be void.~~

We respectfully ask the Attorney General to prepare the necessary title and explanation for this initiated constitutional amendment. Per SDCL 2-9-30, we also ask the Director of the Legislative Research Council to prepare the necessary fiscal note for this initiated constitutional amendment.

We thank you for your time and service to the people of South Dakota.

Sincerely,

Mike Mueller Julie Frye-Mueller

Mike Mueller

Co- sponsor

Julie Frye-Mueller

Co-sponsor

Matt Smith

Matt Smith

Co-Sponsor

Abolish Property Taxes SD

23764 Wallace Street

Rapid City, SD 57702