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## **M E M O R A N D U M**

**To: Joint Interim Legislative Committee on the Recompilation of the Constitution**

**From: John E. Treadwell**

**Date: September 17, 2021**

**Re: Levy of Poll Taxes in Other States**

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At the September 2, 2021, meeting of the Joint Interim Legislative Committee on the Recompilation of the Constitution, the committee discussed the poll tax language contained in Section 259 of the Constitution of Alabama of 1901. During this discussion, the question was posed whether poll taxes are currently being levied in other states in any manner. It does not appear that any state currently levies or collects any type of poll tax from its residents.

### **A. Brief Poll Tax Background**

A poll tax is generally considered a fee paid for the right to vote. Although the poll tax is most often associated with suppressing the African American vote during the 1960s, governing bodies often required voters to pay poll taxes long before that time.

In response to the ratification of the 15th Amendment to the United States Constitution, which declared citizens should be allowed to vote without regard to race, color, or prior history of slavery, many southern states, including Alabama, and some northern states levied some form of poll tax on its residents. Administration of the tax varied from state to state but generally required residents to pay the tax to register to vote or provide proof of payment of the tax to vote. Failure to provide a receipt or other proof of payment meant that a resident would be denied the right to vote.

Although the levy and collection of these poll taxes were challenged in court and upheld,<sup>1</sup> by 1962, just five Southern states had not repealed poll tax laws: Alabama, Arkansas, Mississippi, Texas, and Virginia. That same year, Congress passed the 24th Amendment, prohibiting the poll tax as a condition to voting in federal elections. The 24th Amendment became part of the United States Constitution in 1964, when South Dakota ratified it. The 24th Amendment provides:

The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senator or

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<sup>1</sup> See, e.g., Breedlove v. Suttles, 302 U.S. 277 (1937) (upholding a Georgia poll tax) and Butler v. Thompson, 97 F. Supp. 17 (E.D. Va. 1951) (upholding a Virginia poll tax).

Representative in Congress, shall not be denied or abridged by the United States or any state by reason of failure to pay any poll tax or other tax.

In response to the ratification of the 24th Amendment, some states crafted poll tax laws to attempt to circumvent the amendment, but the United States Supreme Court struck down those attempts, holding that these laws were “repugnant to the Twenty-fourth Amendment” and that “the right to vote freely for the candidate of one’s choice is of the essence of a democratic society, and any restrictions on that right strike at the heart of representative government.”<sup>2</sup>

### **B. Poll Taxes in Other States**

Based upon our research, it does not appear that any other state currently levies any form of a poll tax. Most states have expressly repealed poll tax laws and constitutional provisions and some have adopted a constitutional provision prohibiting the levy or collection of poll taxes.<sup>3</sup>

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<sup>2</sup> See Harper v. Virginia Bd. of Elections, 383 U.S. 663 (1966); See also Harman v. Forssenius, 380 U.S. 528 (1965)

<sup>3</sup> See e.g., OH Const. Art. XII, § 1.