

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

557C0134

HOUSE AGRICULTURE AND NATURAL RESOURCES COMMITTEE ENGROSSED NO.

HB1005 - 1/29/99

Introduced by: Representatives Wetz, Jaspers, Lockner, and Weber and Senators Brown (Arnold), Benson, Drake, Lange, Reedy, Valandra, and Vitter at the request of the Interim Agriculture Committee

1 FOR AN ACT ENTITLED, An Act to revise the membership of the Value Added Finance
2 Authority.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 1-16E-4.1 be amended to read as follows:

5 1-16E-4.1. The Board of Directors of the Value Added Finance Authority consists of ~~seven~~
6 nine members appointed by the Governor. No more than ~~four~~ five members may be of the same
7 political party. ~~For the initial board, the Governor shall appoint four members to four-year terms~~
8 ~~and three members to two-year terms. Thereafter, the~~ The term of each member is four years.

9 A member appointed to fill a vacancy occurring other than by expiration of a term is appointed
10 for the remainder of the unexpired term.

1 **BILL HISTORY**

2 1/12/99 First read in House and referred to State Affairs. H.J. 32

3 1/14/99 House of Representatives Referred to Agriculture and Natural Resources. H.J. 60

4 1/28/99 Scheduled for Committee hearing on this date.

5 1/28/99 Agriculture and Natural Resources Do Pass Amended, Passed, AYES 12, NAYS 1.

6 H.J. 232

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

400C0212

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED NO. **HB1038** - 2/18/99

Introduced by: The Committee on State Affairs at the request of the Department of Game,
Fish, and Parks

1 FOR AN ACT ENTITLED, An Act to revise the system of issuing and selling certain licenses,
2 permits, and stamps by agents of the Department of Game, Fish and Parks, to repeal the
3 reimbursement to counties for services rendered in such sales, and to provide additional
4 funds to the state animal damage control fund.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

6 Section 1. That § 41-2-33 be amended to read as follows:

7 41-2-33. The Department of Game, Fish and Parks may appoint license issuing agents to
8 issue on behalf of the department any license, permit, or stamp permitted or provided for by this
9 title and § 32-20A-15.1. ~~The agents shall be bonded in such amounts and conditions as the~~
10 ~~department may deem proper.~~ No conservation officer may be appointed as a license issuing
11 agent. The licensing issuing agents, ~~however, shall receive no compensation from the state for~~
12 ~~any services or expenses in connection with the issuance of such licenses, and shall remit all~~
13 license fees collected at the time and in the manner required by rules adopted pursuant to
14 ~~§ 41-2-18~~ chapter 1-26.

15 Section 2. That § 41-6-56 be repealed.

16 ~~41-6-56. Licenses issued under §§ 41-6-11 to 41-6-48, inclusive, may be issued only as~~

1 provided by §§ 41-6-57 to 41-6-61, inclusive.

2 Section 3. That § 41-6-57 be repealed.

3 ~~41-6-57. Licenses under §§ 41-6-11 to 41-6-21, inclusive, under § 41-6-23, under~~
4 ~~§§ 41-6-35 to 41-6-37, inclusive, under § 41-17-13, and the permit provided by § 32-20A-15.1~~
5 ~~may be issued by the county treasurer of any county in this state or his duly authorized agents~~
6 ~~who, for such purpose, shall be deemed acting for the game, fish and parks commission as~~
7 ~~hereinafter provided.~~

8 Section 4. That § 41-6-59 be amended to read as follows:

9 41-6-59. ~~The county treasurer may appoint agents within the treasurer's county to sell the~~
10 ~~licenses and the permits provided for in § 41-6-57. No conservation officer may be appointed~~
11 ~~as an agent of the county treasurer. Any agent, who has been appointed by the county treasurer~~
12 ~~in any previous year and has provided either a bond or other security to the county treasurer in~~
13 ~~any previous year, is not required to furnish a bond or other security if the agent is not issued~~
14 ~~licenses and permits with a value of more than fifty thousand dollars at any one time. An agent,~~
15 ~~who has previously provided either a bond or other security and has licenses and permits of a~~
16 ~~value no greater than twenty thousand dollars issued at any one time, shall pay to the Department~~
17 ~~of Game, Fish and Parks an annual fee of twenty dollars. An agent, who has previously provided~~
18 ~~either a bond or other security and has licenses and permits of a value greater than twenty~~
19 ~~thousand dollars but less than fifty thousand dollars issued to them at any one time, shall pay the~~
20 ~~department an annual fee of fifty dollars. An agent, who has more than fifty thousand dollars of~~
21 ~~licenses and permits issued at any one time shall be bonded or shall furnish security equal to the~~
22 ~~total value of the licenses and permits issued to the agent at any one time less fifty thousand~~
23 ~~dollars. Any agent who has not previously been bonded or who has not previously provided~~
24 ~~other security to sell the licenses and permits shall be bonded or shall furnish security equal to~~
25 ~~the total value of the licenses issued to the agent at any one time. A certificate of deposit, money~~

1 order, or other negotiable instrument issued by a bank, savings and loan association, or a credit
2 union bearing the agent's social security number or employer identification number payable to
3 the ~~county treasurer~~ department is sufficient security. If an agent fails to timely pay the amount
4 owed to the ~~county treasurer~~ department, the ~~county treasurer~~ department may cash the
5 certificate and satisfy the amount owed to the ~~county treasurer~~ department and remit the balance
6 to the agent. If the agent has paid all the fees owed to the ~~county treasurer~~ and requests a return
7 of the certificate of deposit, money order, or other negotiable instrument, the ~~county treasurer~~
8 department shall endorse it payable to the agent and return it to the agent. ~~Any~~ No agent who
9 defaults on payment of the amount owed to the ~~county treasurer~~ department may ~~not~~ be
10 appointed an agent by the ~~county treasurer~~ until the unpaid amount, plus interest at the Category
11 B rate of interest as defined in § 54-3-16, is paid.

12 Section 5. That § 41-6-59.1 be amended to read as follows:

13 41-6-59.1. The Game, Fish and Parks Commission may promulgate rules ~~and regulations~~
14 pursuant to chapter 1-26 for the purpose of regulating the remittance to ~~county treasurers~~ the
15 department of fees collected by agents appointed by the ~~county treasurer~~ department for the sale
16 of licenses ~~as provided in § 41-6-67.~~

17 Section 6. That § 41-6-62 be amended to read as follows:

18 41-6-62. ~~Applications for licenses~~ Any application for any license under this ~~chapter title~~ shall
19 show that the applicant is legally eligible for the license for which ~~he~~ the applicant applies. Any
20 person authorized under §§ ~~41-6-56 to 41-2-33 and 41-6-61, inclusive,~~ to issue a license may
21 take the oath of the applicant thereto with the same force and effect as if the oath had been taken
22 by any other officer of this state authorized by law to administer an oath.

23 Section 7. That § 41-6-65 be repealed.

24 ~~41-6-65. The secretary of game, fish and parks shall each year furnish to the treasurer of each~~
25 ~~county a supply of hunting, fishing, and trapping licenses, for which the treasurer shall give his~~

1 receipt, to be filed in the department of game, fish and parks:

2 Section 8. That § 41-6-66 be amended to read as follows:

3 41-6-66. ~~The licenses~~ Any license permitted or provided for in §§ ~~41-6-11 to 41-6-21,~~
4 ~~inclusive, in § 41-6-23, in §§ 41-6-35 to 41-6-37, inclusive, and in § 41-17-13, this title and~~
5 § 32-20A-15.1 shall be in such form as the Game, Fish, and Parks Commission or department
6 ~~directs, and shall be furnished to the various county treasurers without charge, and upon receipt~~
7 ~~of the licenses, the county treasurer is liable under the treasurer's official bond for the license~~
8 ~~blanks delivered and for the proceeds derived from the sale thereof, and is responsible for all~~
9 ~~license blanks issued by the treasurer to, and license fees received by, an agent, except that the~~
10 ~~county treasurer is not liable for any amount an agent fails to pay the county treasurer up to the~~
11 ~~amount of licenses and permits the agent may obtain pursuant to § 41-6-59 without providing~~
12 ~~a bond or other security. The Department of Game, Fish, and Parks may collect any amount~~
13 ~~owed by the agent to the county treasurer for which the county treasurer is not liable.~~

14 Section 9. That § 41-6-67 be repealed.

15 ~~— 41-6-67. The treasurer of each county shall, on or before the fifteenth day of each month,~~
16 ~~submit to the department of game, fish and parks a report of all licenses issued by the treasurer~~
17 ~~and agents appointed by the treasurer under § 41-6-59 during the accounting period prescribed~~
18 ~~by the game, fish and parks commission pursuant to § 41-6-59.1 on forms prescribed and~~
19 ~~furnished by the department. The treasurer shall remit all money collected from the sale of these~~
20 ~~licenses as required by § 4-3-12.1 to be credited to a game, fish and parks fund.~~

21 Section 10. That § 41-6-68 be amended to read as follows:

22 41-6-68. ~~The county treasurer~~ Any agent appointed by the department shall promptly
23 transmit such reports as may be required by the Game, Fish and Parks Commission or the
24 department, together with ~~his county warrant for all license fees received by him and his agents~~
25 during the accounting period designated by the department to be deposited in the game, fish and

1 parks fund.

2 Section 11. That § 41-6-69 be amended to read as follows:

3 41-6-69. Not later than the last day of January of each year, ~~the treasurer of each county~~ each
4 agent shall return to the Department of Game, Fish and Parks all unused licenses, together with
5 the stubs or duplicate copies of all licenses issued. ~~Any county not remitting licenses and fees to~~
6 ~~the department of game, fish and parks by the last day of January each year shall be penalized~~
7 ~~one and one-half percent for each month or fraction thereof for the late return of fees and~~
8 ~~licenses. The penalty may not exceed ten percent of the total reimbursement a county receives~~
9 ~~from the department.~~ Following the expiration date of hunting, fishing, and trapping licenses,
10 stamps and permits issued by the department, the department may destroy the licenses, stamps,
11 and permits together with the stubs or duplicate copies upon completion of an audit thereof by
12 the Department of Legislative Audit and filing of a satisfactory report.

13 Section 12. That § 32-20A-15.1 be amended to read as follows:

14 32-20A-15.1. A nonresident owner of an unlicensed snowmobile shall purchase a temporary
15 permit to operate the snowmobile in this state. The fee for the permit is ten dollars. The permit
16 is valid for five consecutive days. All fees collected shall be deposited in the snowmobiles trails
17 fund established by § 32-5-9.2. ~~The Department of Game, Fish and Parks shall supply the county~~
18 ~~treasurers with the necessary permits to implement this section.~~

19 Section 13. That § 41-6-70 be repealed.

20 ~~41-6-70. The game, fish and parks commission shall, at the close of each license year,~~
21 ~~reimburse the various counties for services rendered in connection with the sale of licenses under~~
22 ~~this chapter in the amount of ten percent of all license fees for licenses sold by the county~~
23 ~~treasurer or his agents during such license year, and, in addition, the county treasurers shall also~~
24 ~~be reimbursed ten percent of the fees for the east river and west river prairie firearm deer licenses~~
25 ~~and the east river and west river firearm antelope licenses sold by the department of game, fish~~

1 ~~and parks for the respective counties. No reimbursement may be made for the sale of habitat~~
2 ~~stamps or waterfowl restoration stamps. All money received as such reimbursement shall be~~
3 ~~placed in the special highway fund of the county and shall be apportioned and used as provided~~
4 ~~in §§ 32-11-5 to 32-11-7, inclusive.~~

5 Section 14. That § 40-36-11 be amended to read as follows:

6 40-36-11. Each county shall annually appropriate a sum equal to an assessment on all cattle
7 and sheep based on the most current United States Department of Commerce census of
8 agriculture, and the money shall be remitted to the state treasurer for deposit in the state animal
9 damage control fund. Each county shall be assessed at a rate of twenty-five cents per head for
10 all sheep and six cents per head for all cattle. The Department of Game, Fish and Parks shall
11 certify, to each county auditor, the amount to be appropriated. The state animal damage control
12 fund shall be matched ~~dollar for dollar~~ two dollars for every one dollar of county appropriation
13 by funds of the Department of Game, Fish and Parks to carry out the provisions of this chapter.
14 ~~—The provisions of § 10-12B-16 do not apply to this section.~~

1 **BILL HISTORY**

2 1/12/99 First read in House and referred to State Affairs. H.J. 39

3 1/15/99 Scheduled for Committee hearing on this date.

4 1/29/99 Scheduled for Committee hearing on this date.

5 2/1/99 Scheduled for Committee hearing on this date.

6 2/3/99 Scheduled for Committee hearing on this date.

7 2/5/99 Scheduled for Committee hearing on this date.

8 2/8/99 Scheduled for Committee hearing on this date.

9 2/10/99 Scheduled for Committee hearing on this date.

10 2/17/99 Scheduled for Committee hearing on this date.

11 2/17/99 State Affairs Do Pass Amended, Failed, AYES 6, NAYS 6.

12 2/17/99 State Affairs Report Without Recommendation, AYES 8, NAYS 4.

13 2/18/99 House of Representatives Placed on Calendar, AYES 56, NAYS 14.

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

454C0508

SENATE JUDICIARY COMMITTEE
ENGROSSED NO. **HB1103** - 2/16/99

Introduced by: Representatives Wilson, Brown (Jarvis), Hunt, and Michels and Senators
Moore, Everist, and Munson (David)

1 FOR AN ACT ENTITLED, An Act to increase the per diem paid to jurors.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 16-13-46 be amended to read as follows:

4 16-13-46. Each juror for each day's attendance upon the circuit court or the magistrate court
5 shall receive ~~forty~~ fifty dollars, and mileage at such rate as may be established pursuant to § 3-9-1
6 for each mile actually and necessarily traveled, to be paid by the county. However, any juror
7 called but not impaneled shall receive an appearance fee of ten dollars and, in addition, mileage
8 at such rate as may be established pursuant to § 3-9-1 for each mile actually and necessarily
9 traveled. Such juror's fees, except as provided in § 16-13-47, shall be paid by the county
10 treasurer upon the presentation of warrants ~~which~~. The warrants shall be issued by the county
11 auditor forthwith upon filing of each juror's certificate of attendance, ~~which~~. Each certificate shall
12 bear the endorsement or certificate of the clerk of the court in which such fees accrued to the
13 effect that ~~said~~ the certificate is accurate as to the time expended and the amount of fees claimed.

1 **BILL HISTORY**

2 1/21/99 First read in House and referred to Judiciary. H.J. 110

3 1/27/99 Scheduled for Committee hearing on this date.

4 1/27/99 Judiciary Do Pass, Passed, AYES 11, NAYS 0. H.J. 206

5 1/28/99 Motion to Amend, Passed, AYES 58, NAYS 11. H.J. 253

6 1/28/99 House of Representatives Do Pass Amended, Passed, AYES 61, NAYS 8. H.J. 254

7 1/29/99 First read in Senate and referred to Judiciary. S.J. 266

8 2/12/99 Scheduled for Committee hearing on this date.

9 2/12/99 Judiciary Do Pass Amended, Passed, AYES 7, NAYS 0. S.J. 475

10 2/12/99 Judiciary Place on Consent Calendar.

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

664C0575

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB1164** - 2/18/99

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsors.

Introduced by: Representatives Wetz, Klaudt, McNenny, and Young and Senators Brown (Arnold), Benson, and Bogue

1 FOR AN ACT ENTITLED, An Act to provide certain injunctive relief against unwarranted
2 emergency zoning ordinances, zoning maps, and other official controls.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 11-2 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any person who is aggrieved by the adoption of an emergency temporary zoning ordinance
7 pursuant to § 11-2-10 or any other emergency ordinance, zoning map, or other official control
8 authorized pursuant to this chapter may seek an injunction against it in any court of appropriate
9 jurisdiction based on the grounds that the emergency temporary zoning ordinance or other
10 emergency ordinance, zoning map, or official control authorized pursuant to this chapter is not
11 necessary to protect the public health, safety, and public welfare. If the court finds that the
12 emergency temporary zoning ordinance or other emergency ordinance, zoning map, or official
13 control authorized pursuant to this chapter is not necessary to protect the public health, safety,
14 and general welfare, the court shall declare the ordinance or other emergency ordinance, zoning
15 map, or official control authorized pursuant to this chapter null and void.

1 **BILL HISTORY**

2 1/26/99 First read in House and referred to Local Government. H.J. 191

3 2/4/99 Scheduled for Committee hearing on this date.

4 2/9/99 Scheduled for Committee hearing on this date.

5 2/9/99 Local Government Tabled, AYES 9, NAYS 3. H.J. 430

6 2/16/99 Local Government Removed from Table, AYES 9, NAYS 4.

7 2/18/99 Scheduled for Committee hearing on this date.

8 2/18/99 Local Government Do Pass Amended, Passed, AYES 11, NAYS 0.

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

226C0443

HOUSE EDUCATION COMMITTEE ENGROSSED NO. **HB1178** - 2/18/99

Introduced by: Representatives Richter, Broderick, Brooks, Brown (Richard), Cerny, Chicoine, Davis, Duniphan, Fiegen, Fischer-Clemens, Haley, Koetzle, Konold, Lucas, McIntyre, Michels, Monroe, Munson (Donald), Nachtigal, Peterson, Putnam, Roe, Slaughter, Solum, Sutton (Daniel), Sutton (Duane), Wilson, and Windhorst and Senators Everist, Albers, Brown (Arnold), Dunn (Jim), Flowers, Hainje, Ham, Hutmacher, Madden, Moore, Munson (David), Olson, Paisley, Shoener, Staggers, Symens, and Vitter

1 FOR AN ACT ENTITLED, An Act to revise the state aid for special education funding formula.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 13-37-35 be repealed.

4 ~~—13-37-35. Terms used in §§ 13-37-35 to 13-37-48, inclusive, mean:~~

5 ~~—(1)—"Resident average daily membership," the average number of resident kindergarten~~
6 ~~through twelfth grade pupils enrolled in all schools operated by the school district~~
7 ~~during the previous regular school year plus the average number of pupils for whom~~
8 ~~the district pays tuition and plus the average number of resident pupils enrolled in~~
9 ~~another school district under the provisions of § 13-28-40;~~

10 ~~—(2)—"Index factor," is the annual percentage change in the consumer price index for urban~~
11 ~~wage earners and clerical workers as computed by the Bureau of Labor Statistics of~~
12 ~~the United States Department of Labor for the year before the year immediately~~
13 ~~preceding the year of adjustment or three percent, whichever is less;~~

1 ~~— (3) — "Local effort," is the amount of taxes payable each year, using the maximum levy for~~
2 ~~the special education fund of a school district pursuant to § 13-37-16;~~

3 ~~— (4) — "Allocation for a student with a mild disability," for the period January 1, 1997,~~
4 ~~through June 30, 1997, is \$892. For school fiscal year beginning July 1, 1997, the~~
5 ~~allocation for a student with a mild disability shall be \$1,785 increased by the lesser~~
6 ~~of the index factor or three percent. For each school year thereafter, the allocation for~~
7 ~~a student with a mild disability shall be the previous fiscal year's allocation for such~~
8 ~~child increased by the lesser of the index factor or three percent;~~

9 ~~— (5) — "Allocation for a student with a severe disability," for the period January 1, 1997,~~
10 ~~through June 30, 1997, is \$10,707. For school fiscal year beginning July 1, 1997, the~~
11 ~~allocation for a child with a severe disability shall be \$21,415 increased by the lesser~~
12 ~~of the index factor or three percent. For each school year thereafter, the allocation for~~
13 ~~a child with a severe disability shall be the previous fiscal year's allocation for such~~
14 ~~child increased by the lesser of the index factor or three percent;~~

15 ~~— (6) — "Local need," an amount to be determined as follows:~~

16 ~~— (i) — Multiply the resident average daily membership times 0.1025;~~

17 ~~— (ii) — Multiply the result of (i) times the allocation for a student with a mild disability;~~

18 ~~— (iii) — Multiply the resident average daily membership times 0.015;~~

19 ~~— (iv) — Multiply the result of (iii) times the allocation for a student with a severe~~
20 ~~disability;~~

21 ~~— (v) — Add together the result of (ii) and the result of (iv);~~

22 ~~— (7) — "Student with mild disability," is a student whose performance level is not sufficient~~
23 ~~to demonstrate success in the regular education environment without the provision~~
24 ~~of special education, and who meets eligibility criteria under Part B, IDEA, or both;~~

25 ~~— (8) — "Student with severe disability," is a student with a low-incidence disability who:~~

1 ~~_____ (a) Meets eligibility criteria under Part B, IDEA; and~~

2 ~~_____ (b) Presents needs which require intervention skills which are substantially~~
3 ~~different from those provided to nondisabled students, in that the skills are~~
4 ~~disability-specific and require special training, equipment, and facilities to~~
5 ~~perform;~~

6 ~~_____ (9) "Effort factor," the school district's special education tax levy in dollars per thousand~~
7 ~~divided by \$1.40.~~

8 Section 2. That chapter 13-37 be amended by adding thereto a NEW SECTION to read as
9 follows:

10 Terms used in chapter 13-37 mean:

- 11 (1) "Level one disability," a speech or language disability;
- 12 (2) "Level two disability," a learning disability or other health impairment;
- 13 (3) "Level three disability," a preschool developmental delay;
- 14 (4) "Level four disability," a mental retardation or emotional disorder;
- 15 (5) "Level five disability," hearing impairment, deafness, visual impairment, deaf-
- 16 blindness, orthopedic impairment, or traumatic brain injury;
- 17 (6) "Level six disability," autism;
- 18 (7) "Level seven disability," multiple disabilities;
- 19 (8) "Index factor," is the annual percentage change in the consumer price index for urban
- 20 wage earners and clerical workers as computed by the Bureau of Labor Statistics of
- 21 the United States Department of Labor for the year before the year immediately
- 22 preceding the year of adjustment or three percent, whichever is less;
- 23 (9) "Local effort," is the amount of taxes payable each year, using the maximum levy for
- 24 the special education fund of a school district pursuant to § 13-37-16;
- 25 (10) "Allocation for a student with a level one disability," for the school fiscal year

1 beginning July 1, 1999, is \$2,295. For each school year thereafter, the allocation for
2 a student with a level one disability shall be the previous fiscal year's allocation for
3 such child increased by the lesser of the index factor or three percent;

4 (11) "Allocation for a student with a level two disability," for the school fiscal year
5 beginning July 1, 1999, is \$4,413. For each school year thereafter, the allocation for
6 a student with a level two disability shall be the previous fiscal year's allocation for
7 such child increased by the lesser of the index factor or three percent;

8 (12) "Allocation for a student with a level three disability of deafness," for the school fiscal
9 year beginning July 1, 1999, is \$6,487. For each school year thereafter, the allocation
10 for a student with a level three disability shall be the previous fiscal year's allocation
11 for such child increased by the lesser of the index factor or three percent;

12 (13) "Allocation for a student with a level four disability," for the school fiscal year
13 beginning July 1, 1999, is \$8,090. For each school year thereafter, the allocation for
14 a student with a level four disability shall be the previous fiscal year's allocation for
15 such child increased by the lesser of the index factor or three percent;

16 (14) "Allocation for a student with a level five disability," for the school fiscal year
17 beginning July 1, 1999, is \$10,272. For each school year thereafter, the allocation for
18 a student with a primary disability shall be the previous fiscal year's allocation for such
19 child increased by the lesser of the index factor or three percent;

20 (15) "Allocation for a student with a level six disability," for the school fiscal year
21 beginning July 1, 1999, is \$14,572. For each school year thereafter, the allocation for
22 a student with a level six disability shall be the previous fiscal year's allocation for such
23 child increased by the lesser of the index factor or three percent;

24 (16) "Allocation for a student with a level seven disability," for the school fiscal year
25 beginning July 1, 1999, is \$15,626. For each school year thereafter, the allocation for

1 a student with a level seven disability shall be the previous fiscal year's allocation for
2 such child increased by the lesser of the index factor or three percent;

3 (17) "Child count," is the number of students in need of special education or special
4 education and related services according to criteria set forth in rules promulgated
5 pursuant to §§ 13-37-1.1 and 13-37-46 submitted to the Department of Education
6 and Cultural Affairs in accordance with rules promulgated pursuant to § 13-37-1.1;

7 (18) "Local need," an amount to be determined as follows:

8 (a) Multiply the number students having a level one disability as reported on the
9 child count for the previous school fiscal year by the allocation for a student
10 with a level one disability;

11 (b) Multiply the number of students having a level two disability as reported on the
12 child count for the previous school fiscal year by the allocation for a student
13 with a level two disability;

14 (c) Multiply the number of students having a level three disability as reported on
15 the child count for the previous school fiscal year by the allocation for a
16 student with a level three disability;

17 (d) Multiply the number students having a level four disability as reported on the
18 child count for the previous school fiscal year by the allocation for a student
19 with a level four disability;

20 (e) Multiply the number students having a level five disability as reported on the
21 child count for the previous school fiscal year by the allocation for a student
22 with a level five disability;

23 (f) Multiply the number students having a level six disability as reported on the
24 child count for the previous school fiscal year by the allocation for a student
25 with a level six disability;

1 (g) Multiply the number students having a level seven disability as reported on the
 2 child count for the previous school fiscal year by the allocation for a student
 3 with a level seven disability;

4 (h) Sum the results of (a) through (g);

5 (19) "Effort factor," the school district's special education tax levy in dollars per thousand
 6 divided by the maximum levy for the special education fund of a school district
 7 pursuant to § 13-37-16.

8 Section 3. That § 13-37-36 be repealed.

9 ~~13-37-36. The secretary of the Department of Education and Cultural Affairs shall compute~~
 10 ~~state aid for special education for each school district according to the following calculations:~~

11 ~~(1) Determine each school district's average daily membership;~~

12 ~~(2) Calculate the local need of a school district;~~

13 ~~(3) State aid for special education is:~~

14 ~~(a) Local need minus local effort, the difference multiplied times the effort factor;~~

15 ~~or~~

16 ~~(b) Zero if the calculation in (a) is a negative number.~~

17 Section 4. That chapter 13-37 be amended by adding thereto a NEW SECTION to read as
 18 follows:

19 The secretary of the Department of Education and Cultural Affairs shall compute state aid
 20 for special education for each school district according to the following calculations:

21 (1) Calculate the local need of a school district;

22 (2) State aid for special education is:

23 (a) Local need minus local effort, the difference multiplied by the effort factor; or

24 (b) Zero if the calculation in (a) is a negative number.

25 Section 5. That chapter 13-37 be amended by adding thereto a NEW SECTION to read as

1 follows:

2 Any records related to the reporting of the child count of a public school district shall be
3 subject to examination by the Department of Education and Cultural Affairs at all times.

4 Section 6. That chapter 13-37 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 If, in the department's examination of the child count, it is determined that the data was
7 overreported, the department shall recover from the district's special education fund the amount
8 of state aid overpaid as a result of the overreporting. Upon recovery of the overpayment, the
9 department shall deposit the overpayment into the state general fund. If the overreporting
10 occurred with the intent to increase the amount of state aid received by overreporting, the
11 individual responsible for the overreporting may be charged with a Class 1 misdemeanor as
12 provided in § 13-8-44, with the maximum penalty as defined in § 22-6-2.

13 Section 7. That chapter 13-37 be amended by adding thereto a NEW SECTION to read as
14 follows:

15 If the amount of funds distributed according to the chapter is less than the amount of funds
16 distributed in the previous fiscal year, each eligible district shall receive a pro rata share of the
17 difference based on the amount of funds it received in the current fiscal year pursuant to § 13-37-
18 36.

19 Section 8. That § 13-37-36.1 be amended to read as follows:

20 13-37-36.1. To establish the school district special education fund statutory carryover
21 excluding federal funds, the following calculations shall be performed:

22 (1) Divide the total federal special education revenue by the total special education
23 revenues; and

24 (2) Multiply the federal special education percentage calculated in (1) times the total
25 special education fund balance; and

1 (3) Deduct the amount of federal revenue calculated in (2) and the special education
2 revenues received pursuant to section 4 of this Act from the special education fund
3 balance.

4 Section 9. That chapter 13-37 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 In addition, for the purposes specified in § 13-37-40, money set aside pursuant to § 13-37-40
7 may be used by the Department of Education and Cultural Affairs to establish and maintain a
8 program to assist school districts with legal matters relating to special education or to employ
9 personnel to audit school districts for compliance with the provisions of this Act.

10 Section 10. That chapter 13-37 be amended by adding thereto a NEW SECTION to read as
11 follows:

12 A level seven disability must meet criteria for at least two disability categories in levels four
13 and five, excluding the combination of deafness and blindness.

14 Section 11. That chapter 13-37 be amended by adding thereto a NEW SECTION to read as
15 follows:

16 Any student who is less than six years of age who meets the level three criteria, not including
17 level one criteria, must be reported as a level three disability. However, a student who is younger
18 than six years of age who has a level one disability must be reported as a level one disability.

19 Section 12. The Department of Education and Cultural Affairs may promulgate rules
20 pursuant to chapter 1-26 to define the various disabilities in this Act.

21 Section 13. Section 5 of this Act is effective June 15, 1999.

1 **BILL HISTORY**

2 1/26/99 First read in House and referred to Education. H.J. 194

3 2/16/99 Scheduled for Committee hearing on this date.

4 2/16/99 Education Deferred to another day.

5 2/18/99 Scheduled for Committee hearing on this date.

6 2/18/99 Education Do Pass Amended, Passed, AYES 11, NAYS 2.

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

921C0679

HOUSE STATE AFFAIRS COMMITTEE

ENGROSSED NO. **HB1198** - 2/18/99

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsors.

Introduced by: Representatives Cutler, Crisp, Diedrich (Larry), Haley, Jaspers, Kazmerzak, and Wetz and Senators Kleven, Benson, Frederick, Hutmacher, and Symens

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the expenses of state
2 officers and employees which are reimbursable.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 3-9-2 be amended to read as follows:

5 3-9-2. The State Board of Finance ~~shall have authority to~~ may fix the maximum amount
6 which may be allowed per day or fraction of a day as reimbursement for expenses for meals and
7 lodging necessarily incurred by state officers and employees in the performance of their duties
8 as such while away from their places of residence or headquarters station, and change such
9 maximum allowance from time to time as it may deem just and proper under existing conditions.

10 The State Board of Finance ~~shall have authority in its discretion to~~ may authorize reimbursement
11 on a per diem basis, in lieu of the method described above or any other method provided by law,
12 and fix the amount per day or fraction of a day which may be allowed, and may from time to time
13 ~~in its discretion~~ change such amount as it may deem just and proper under existing conditions.

14 The head of an agency as defined in § 1-32-1 may authorize an employee to be reimbursed for
15 actual costs of lodging and meals if:

1 (1) The lodging and meals are in furtherance of the state's interests, concerns, and
2 activities;

3 (2) The activities for which the lodging and meals are required fall within the scope of the
4 agency's responsibilities; and

5 (3) The employee is performing official duties related to trade servicing or promotional
6 activities.

7 The authorization shall be made on a form prescribed by the Governor and shall accompany
8 the claim filed pursuant to § 3-9-8. The provisions of this section and the amounts fixed by the
9 State Board of Finance shall prevail notwithstanding the provisions of other statutes, such as
10 provision that a state officer or employee shall be paid or reimbursed for his actual and necessary
11 traveling expenses.

1 **BILL HISTORY**

2 1/27/99 First read in House and referred to committee assignment waived. H.J. 212

3 1/28/99 Referred to State Affairs. H.J. 239

4 2/1/99 Scheduled for Committee hearing on this date.

5 2/3/99 Scheduled for Committee hearing on this date.

6 2/5/99 Scheduled for Committee hearing on this date.

7 2/8/99 Scheduled for Committee hearing on this date.

8 2/10/99 Scheduled for Committee hearing on this date.

9 2/12/99 Scheduled for Committee hearing on this date.

10 2/16/99 Scheduled for Committee hearing on this date.

11 2/16/99 State Affairs Do Pass Amended, Passed, AYES 11, NAYS 2. H.J. 557

12 2/17/99 State Affairs Hog Housed.

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

911C0167

HOUSE APPROPRIATIONS COMMITTEE

ENGROSSED NO. **HB1218** - 2/18/99

Introduced by: Representatives Richter, Brown (Richard), Clark, Duniphan, Fiegen, Haley, Lucas, Smidt, and Waltman and Senators Duxbury, Brosz, Frederick, Olson, and Paisley

1 FOR AN ACT ENTITLED, An Act to create a postsecondary education loan program and to
2 make an appropriation therefor.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. There is hereby created the South Dakota first education loan program to provide
5 postsecondary education loans for eligible students of state-supported universities who are South
6 Dakota high school graduates.

7 Section 2. Terms used in this Act mean:

8 (1) "Board," the South Dakota Board of Regents;

9 (2) "Eligible student," any South Dakota high school graduate who:

10 (a) Has graduated with a cumulative grade point average of at least 3.0 on a 4.0
11 scale;

12 (b) Has completed a college preparatory curriculum that includes four years of
13 English, four years of social science, three years of advanced mathematics
14 beginning at the level of algebra and becoming progressively more difficult,
15 three years of laboratory science, and at least one course in

- 1 computer/information technology;
- 2 (c) Has scored twenty-five or higher on the American College Testing
- 3 examination, or its equivalent;
- 4 (d) Has indicated an intent to live and work in South Dakota following
- 5 postsecondary education;
- 6 (e) Maintains satisfactory academic progress as determined by the board;
- 7 (3) "Fund," the South Dakota first education loan program fund;
- 8 (4) "Loan," a South Dakota first education loan pursuant to this Act;
- 9 (5) "Program," the South Dakota first education loan program;
- 10 (6) "South Dakota high school graduate," any graduate of a public or private high school
- 11 in South Dakota, or a South Dakota resident who graduated from a high school in a
- 12 neighboring state where the student had attended high school pursuant to a contract
- 13 according to chapter 13-15, if the student graduated in the academic year immediately
- 14 preceding the initial award of the loan; and
- 15 (7) "Eligible institution," a public university under the control of the South Dakota Board
- 16 of Regents.

17 Section 3. There is hereby created in the state treasury the South Dakota first education loan
18 program fund into which shall be deposited any appropriations, private donations, grants, and
19 other funds provided to the board for loans pursuant to this Act. All revenues generated by loan
20 repayments and any penalties received pursuant to this Act shall also be deposited in the fund.
21 Expenditures from the fund shall be in the ratio of three general fund dollars to every two dollars
22 from other sources.

23 Section 4. The Board of Regents shall oversee the fund created in this Act and make loans
24 to eligible students as funds are available based upon recommendations from one of the eligible
25 institutions.

1 Section 5. No loan made pursuant to this Act may exceed the cost of tuition and mandatory
2 fees for a full-time student as defined by the Board of Regents.

3 Section 6. The Board of Regents shall promulgate rules, pursuant to chapter 1-26, to process
4 loan applications, to determine a means of selecting eligible students to receive loans if
5 applications exceed available money in the fund, and to govern satisfactory progress and
6 conditions under which an eligible student may enroll at less than a full-time basis, including
7 conditions under which a student may withdraw from an institution without penalty.

8 Section 7. Any student selected for a loan pursuant to this Act shall sign a contract agreeing
9 to comply with the rules promulgated by the board. The written contract shall contain:

- 10 (1) The terms and conditions under which the loan is made, and the requirements for
11 repayment of the loan by the student;
- 12 (2) A stipulation that no interest may be assessed on any loan through the program while
13 the student is enrolled full-time, or enrolled part-time with approval of the board, and
14 meets the eligibility requirements of the board;
- 15 (3) The terms and conditions for qualifying for forgiveness of the loan principal and
16 interest;
- 17 (4) A provision that any financial obligations arising from the contract, and any
18 obligations of the eligible student that are conditioned thereon, are contingent upon
19 appropriations to the fund; and
- 20 (5) The amount of the penalties assessed, if repayment of the loan by the student is not
21 made in accordance with the contract, or the student fails to maintain eligibility or
22 other requirements of the program.

23 Section 8. An eligible student may participate in the program for up to ten semesters,
24 whether consecutive or not. No student may participate in the program for more than seven years
25 after commencing participation, whether consecutive or not. Any student who receives a loan

1 and who fails to maintain satisfactory academic progress is ineligible for continued participation
2 and is ineligible for forgiveness of any loan received.

3 Section 9. An eligible student shall repay the full value of the loan plus interest equivalent to
4 the lowest rate assessed on federally guaranteed student loans at the time the loan reaches
5 repayment, except as provided in section 10 of this Act. Any eligible student who fails to
6 maintain satisfactory progress toward a degree as promulgated by the board shall repay the loan
7 according to this section.

8 Section 10. An eligible student who complies with the program requirements as promulgated
9 by the board may qualify for forgiveness of a loan or loans received through the program. To
10 qualify for loan forgiveness, an eligible student who has received a South Dakota first education
11 loan and who has graduated shall satisfy one of the following:

12 (1) For each year following graduation from an eligible institution that the student lives
13 and works in South Dakota, one tenth of the loan principal balance and its interest is
14 forgiven;

15 (2) For each year following graduation from an eligible institution that the student lives
16 and works outside of South Dakota for a South Dakota company with its corporate
17 offices in South Dakota, or a company with a substantial presence in South Dakota
18 as defined by the board, one tenth of the loan principal balance and its interest is
19 forgiven;

20 (3) For each year following graduation from an eligible institution that the student is a
21 member of the armed services or a participant in a federal service program such as
22 Volunteers in Service to America (VISTA) or the Peace Corps, or their successor
23 organizations, as approved by the board, one-tenth of the loan principal balance and
24 its interest is forgiven; and

25 (4) For each year following graduation from an eligible institution that the student lives

1 and works in South Dakota, even if the student has lived and worked outside of South
2 Dakota for a time and then returned to South Dakota to establish permanent
3 residence, one-tenth of the loan principal balance and its interest is forgiven.

4 Section 11. There is hereby appropriated from the general fund the sum of two hundred four
5 thousand dollars (\$204,000), or so much thereof as may be necessary, to the Board of Regents
6 for deposit in the South Dakota first education loan program fund to make loans pursuant to this
7 Act.

8 Section 12. There is hereby appropriated the sum of one hundred thirty-six thousand dollars
9 (\$136,000) of other fund expenditure authority to the Board of Regents to make loans pursuant
10 to this Act.

11 Section 13. The Board of Regents shall annually determine, based upon each university's
12 percentage share of the most recent system total of full-time equivalent student fall enrollment,
13 the total amount of loans which may be allocated to each eligible institution. If an eligible
14 institution does not participate in the program, its share of the amount available for loans shall
15 be redistributed to the participating eligible institutions.

16 Section 14. The executive director of the Board of Regents shall approve vouchers and the
17 state auditor shall draw warrants to pay expenditures authorized by this Act.

18 Section 15. Any amounts appropriated in this Act not lawfully expended or obligated by
19 June 30, 2000, shall revert in accordance with § 4-8-21.

20 Section 16. The Board of Regents shall annually provide the state treasurer a report
21 indicating the recipients of loans pursuant to this Act, and copies of contracts.

22 Section 17. The state treasurer shall promulgate rules, pursuant to chapter 1-26, to establish:
23 procedures for notifying contract violators; collection procedures; forgiveness or deferment
24 procedures and special circumstances; and repayment schedules.

25 Section 18. The state treasurer is directed to transfer to the state general fund the sum of two

- 1 hundred four thousand dollars (\$204,000) from the private activity bond fees fund, created in
- 2 § 1-7-10, for the purposes of this Act.

1 **BILL HISTORY**

2 1/27/99 First read in House and referred to committee assignment waived. H.J. 216

3 1/28/99 Referred to State Affairs. H.J. 240

4 2/1/99 House of Representatives Referred to Appropriations.

5 2/12/99 Scheduled for Committee hearing on this date.

6 2/12/99 Appropriations Deferred to another day.

7 2/17/99 Scheduled for Committee hearing on this date.

8 2/18/99 Scheduled for Committee hearing on this date.

9 2/18/99 Appropriations Do Pass Amended, Passed, AYES 9, NAYS 0.

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

194C0694

HOUSE EDUCATION COMMITTEE
ENGROSSED NO. **HB1229** - 2/18/99

Introduced by: Representative Putnam and Senator Drake

1 FOR AN ACT ENTITLED, An Act to require the reporting of certain weapons violations on
2 school premises to local law enforcement authorities.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 13-32-4 be amended to read as follows:

5 13-32-4. The school board of every school district shall assist and cooperate with the
6 administration and teachers in the government and discipline of the schools. The board may
7 suspend or expel from school any student for violation of rules or policies or for insubordination
8 or misconduct, and the superintendent or principal in charge of the school may temporarily
9 suspend any student in accordance with § 13-32-4.2. The rules or policies may include
10 prohibiting the following:

11 (1) The consumption or possession of beer or alcoholic beverages on the school premises
12 or at school activities;

13 (2) The use or possession of a controlled substance, without a valid prescription, on the
14 school premises or at school activities; and

15 (3) The use or possession of a firearm, as provided in § 13-32-7, on or in any elementary
16 or secondary school premises, vehicle, or building or any premises, vehicle, or

1 building used or leased for elementary or secondary school functions or activities.

2 In addition to administrative and school board disciplinary action, any violation of § 13-32-7
3 shall be reported to local law enforcement.

4 The period of expulsion may extend beyond the semester in which the violation,
5 insubordination, or misconduct occurred. Any expulsion for consumption or possession of beer
6 or alcoholic beverages may not extend beyond ninety school days. If a student has intentionally
7 brought a firearm onto school premises, the expulsion may not be for less than twelve months.

8 However, the superintendent or chief administering officer of each local school district or
9 system may increase or decrease the length of a firearm-related expulsion on a case-by-case
10 basis. The South Dakota Board of Education shall promulgate rules pursuant to chapter 1-26 to
11 establish administrative due process procedures for the protection of a student's rights. The
12 administrative due process procedures shall include a requirement that the school give notice of
13 a student's due process rights to the parent or guardian of the student at the time of suspension
14 or expulsion. Each school district board shall provide a procedural due process hearing, if
15 requested, for a student in accordance with such rules if the suspension or expulsion of the
16 student extends into the eleventh school day.

17 This section does not preclude other forms of discipline which may include suspension or
18 expulsion from a class or activity.

19 This section does not prohibit a local school district from providing educational services to
20 an expelled student in an alternative setting.

21 Section 2. That chapter 26-7A be amended by adding thereto a NEW SECTION to read as
22 follows:

23 A child alleged to have violated § 13-32-7 shall be taken into temporary custody by a law
24 enforcement officer who shall immediately notify an intake officer who shall conduct a hearing
25 pursuant to § 26-7A-13.

1 **BILL HISTORY**

2 1/27/99 First read in House and referred to committee assignment waived. H.J. 217

3 1/28/99 Referred to Education. H.J. 241

4 2/2/99 Scheduled for Committee hearing on this date.

5 2/2/99 Education Deferred to another day.

6 2/4/99 Scheduled for Committee hearing on this date.

7 2/9/99 Scheduled for Committee hearing on this date.

8 2/11/99 Scheduled for Committee hearing on this date.

9 2/16/99 Scheduled for Committee hearing on this date.

10 2/18/99 Scheduled for Committee hearing on this date.

11 2/18/99 Education Do Pass Amended, Passed, AYES 12, NAYS 0.

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

507C0438

HOUSE TAXATION COMMITTEE ENGROSSED NO. **HB1232** - 2/18/99

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsors.

Introduced by: Representatives Diedtrich (Elmer) and Waltman and Senators Lawler and Drake

1 FOR AN ACT ENTITLED, An Act to provide for a retroactive application of the definition of
2 telephone company operating property.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. The Legislature finds:

- 5 (1) That at all times since July 1, 1974, § 10-33-10, as heretofore existing in the statutes
6 of this state were intended by the Legislature to apply the operating property of each
7 telephone company, including each wireless and cellular telephone company;
- 8 (2) That the Department of Revenue, in good faith, for the years 1992, 1993, 1994, 1995,
9 and 1996 included property belonging to any wireless and cellular telephone company
10 in the definition of operating property pursuant to § 10-33-10 assessed for taxation
11 by the Department of Revenue;
- 12 (3) That each county in which any wireless and cellular telephone company operates
13 taxed those wireless and cellular telephone companies based upon a value that was
14 assessed by the Department of Revenue pursuant to § 10-33-10 for the years 1992,
15 1993, 1994, 1995, and 1996;
- 16 (4) That any wireless and cellular telephone company operating within the State of South

1 Dakota in the years 1992, 1993, 1994, 1995, and 1996 did not object to operating
2 property being assessed for taxation by the Department of Revenue pursuant to § 10-
3 33-10;

4 (5) That each county, in good faith, has received all sums paid pursuant to § 10-33-18,
5 which taxes were assessed upon value of the wireless and cellular telephone
6 companies as determined by the Department of Revenue;

7 (6) That the refund of taxes paid by each wireless and cellular telephone company to the
8 counties for the years 1992, 1993, 1994, 1995, and 1996 would seriously impair the
9 fiscal integrity of those counties;

10 (7) That the citizens of those counties which collected taxes based upon the valuation as
11 determined by the Department of Revenue would be denied basic services of
12 government in the event of such a refund or will be required to pay additional taxes
13 to replace the revenues lost to the county treasuries, and therefore ultimately derive
14 little benefit from any such refund; and

15 (8) That the retroactive application of this Act will not result in the collection of any
16 additional taxes from the citizens of the state.

17 Section 2. The provisions of chapter 67 of the 1998 Session Laws of South Dakota are
18 effective as follows:

19 (1) Retroactively for the time period between January 1, 1992, to December 31, 1996,
20 inclusive; and

21 (2) Prospectively from July 1, 1998.

22 Section 3. The effect of the retroactivity provided for in section 2 of this Act is to cover the
23 taxes that were collected by the counties from wireless and cellular telephone companies for the
24 years 1992, 1993, 1994, 1995, and 1996.

25 Section 4. The collection of any taxes from each wireless and cellular telephone company by

1 the counties for the years 1992, 1993, 1994, 1995, and 1996 as a result of having operating
2 property assessed by the Department of Revenue, prior to the passage of this Act is hereby
3 validated and ratified.

4 Section 5. If any provision of this Act or the application of such provision to any person or
5 circumstance is held invalid, the remainder of the Act and the application of such provisions to
6 persons and circumstances other than those as to which it is held invalid is not affected.

7 Section 6. Whereas, this Act is necessary for the support of the state government and its
8 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full
9 force and effect from and after its passage and approval.

1 **BILL HISTORY**

2 1/28/99 First read in House and referred to Taxation. H.J. 241

3 2/2/99 Scheduled for Committee hearing on this date.

4 2/4/99 Scheduled for Committee hearing on this date.

5 2/9/99 Scheduled for Committee hearing on this date.

6 2/11/99 Scheduled for Committee hearing on this date.

7 2/16/99 Scheduled for Committee hearing on this date.

8 2/18/99 Scheduled for Committee hearing on this date.

9 2/18/99 Taxation Do Pass Amended, Passed, AYES 9, NAYS 3.

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

725C0659

HOUSE AGRICULTURE AND NATURAL RESOURCES COMMITTEE ENGROSSED NO.

HB1233 - 2/18/99

Introduced by: Representative Weber and Senator Lange

1 FOR AN ACT ENTITLED, An Act to place certain restrictions on the ownership of livestock
2 feedlots by certain livestock processors.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. In order to preserve free and private enterprise, prevent monopoly, and protect
5 consumers, no processor of beef or pork or any entity in which a processor of beef or pork has
6 an ownership interest, whether the ownership interest is implied or imputed or in any way may
7 be attributed to a related party, may own, control, or operate a feedlot in South Dakota in which
8 hogs or cattle are fed for slaughter. In addition, no processor may directly or indirectly control
9 the manufacturing, processing, or preparation for sale of pork or beef products derived from
10 livestock if the processor contracted for the care and feeding of the livestock in this state. This
11 section does not apply to a cooperative association organized under Title 47, if the cooperative
12 association contracts for the care and feeding of livestock with a member of the cooperative
13 association who is actively engaged in farming. This section does not apply to an association
14 organized as a cooperative in which another cooperative association organized under Title 47
15 is a member, if the association contracts with a member which is a cooperative association

1 organized under Title 47, which contracts for the care and feeding of livestock with a member
2 of the cooperative who is actively engaged in farming. This section does not preclude a
3 processor from contracting for the purchase of livestock. This section does not apply to any
4 processor that generates less than ten million dollars of gross revenues per year. This section
5 does not prevent processors or educational institutions from carrying on legitimate research,
6 educational, or demonstration activities, nor does it prevent processors from owning and
7 operating facilities to provide normal care and feeding of animals for a period not to exceed ten
8 days immediately before slaughter, or for a longer period in an emergency. Any processor that
9 owns, controls, or operates a feedlot in violation of this section on July 1, 1999, has until July 1,
10 2006, to dispose of the property.

11 Section 2. A processor violating section 1 of this Act shall be assessed a civil penalty of not
12 more than twenty-five thousand dollars. The courts of this state may prevent and restrain
13 violations of this Act through the issuance of an injunction. The attorney general shall institute
14 suits on behalf of the state to prevent and restrain violations of this Act.

1 **BILL HISTORY**

2 1/28/99 First read in House and referred to Agriculture and Natural Resources. H.J. 241

3 2/9/99 Scheduled for Committee hearing on this date.

4 2/9/99 Scheduled for Committee hearing on this date.

5 2/9/99 Agriculture and Natural Resources Do Pass Amended, Failed, AYES 6, NAYS 7.

6 2/9/99 Agriculture and Natural Resources Deferred to 41st legislative day, AYES 7, NAYS 6.

7 H.J. 458

8 2/18/99 Agriculture and Natural Resources Removed from Table.

9 2/18/99 Agriculture and Natural Resources Do Pass Amended, Passed, AYES 7, NAYS 4.

10 2/18/99 Recalled from committee (Rule 7-7).

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

717C0777

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB1237** - 2/18/99

Introduced by: Representative Volesky

1 FOR AN ACT ENTITLED, An Act to repeal the video lottery and to refer the Act to a vote of
2 the electors of this state at the next general election.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That the following Act be enacted by the South Dakota Legislative Assembly and
5 referred to the vote of the electors of the state at the next general election to be held in the year
6 2000 for their approval:

7 FOR AN ACT ENTITLED, An Act to repeal the video lottery.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

9 Section 1. That § 42-7A-1 be amended to read as follows:

10 42-7A-1. Terms used in this chapter mean:

11 (1) ~~"Associated equipment," any proprietary device, machine or part used in the~~
12 ~~manufacture or maintenance of a video lottery machine, including but not limited to~~
13 ~~integrated circuit chips, printed wired assembly, printed wired boards, printing~~
14 ~~mechanisms, video display monitors and metering devices;~~

15 (2) "Commission," the South Dakota Lottery Commission;

16 (3) "Credit," ~~five, ten or twenty-five cents;~~

- 1 (4) "Executive director," the executive director of the South Dakota Lottery;
- 2 (5) "Instant lottery," a game that offers preprinted tickets that indicate immediately or in
3 a grand prize drawing whether the player has won a prize;
- 4 (6) ~~"Licensed establishment," a bar or lounge owned or managed by an individual,
5 partnership, corporation or association licensed to sell alcoholic beverages for
6 consumption upon the premises where sold;~~
- 7 (7) "Lottery" or "state lottery," any lottery operated pursuant to this chapter;
- 8 (8) "Lottery retailer," any person with whom the South Dakota Lottery has contracted
9 to sell lottery tickets to the public;
- 10 (9) "Lottery vendor" or "vendor," any person who has entered into a major procurement
11 contract with the South Dakota Lottery;
- 12 (10) "Major procurement," any contract with any vendor directly involved in providing
13 facilities, equipment, tickets, and services unique to the lottery, but not including
14 materials, supplies, equipment, and services common to the ordinary operations of
15 state agencies;
- 16 (11) ~~"Net machine income," money put into a video lottery machine minus credits paid out
17 in cash;~~
- 18 (12) "On-line lottery," a game linked to a central computer via a telecommunications
19 network in which the player selects a specified group of numbers or symbols out of
20 a predetermined range of numbers or symbols as approved by the commission;
- 21 (13) "South Dakota Lottery," the state agency created by this chapter to operate a lottery
22 pursuant to this chapter;
- 23 (14) "Ticket," any tangible evidence issued or authorized by the South Dakota Lottery to
24 prove participation in an instant; or on-line ~~or video lottery~~ game;
- 25 ~~(14A) "Video lottery," any video game of chance played on video lottery machines;~~

1 ~~(15) "Video lottery machine distributor," any individual, partnership, corporation or~~
2 ~~association that distributes or sells video lottery machines or associated equipment in~~
3 ~~this state;~~

4 ~~(16) "Video lottery machine manufacturer," any individual, partnership, corporation or~~
5 ~~association that assembles or produces video lottery machines or associated~~
6 ~~equipment for sale or use in this state;~~

7 ~~(17) "Video lottery machine operator," any individual, partnership, corporation or~~
8 ~~association that places video lottery machines or associated equipment for public use~~
9 ~~in this state; and~~

10 ~~(18) "Video lottery machines," or "machine," any electronic video game machine that,~~
11 ~~upon insertion of cash, is available to play or simulate the play of a video game,~~
12 ~~including but not limited to video poker, keno and blackjack, authorized by the~~
13 ~~commission utilizing a video display and microprocessors in which, by chance, the~~
14 ~~player may receive free games or credits that can be redeemed for cash. The term~~
15 ~~does not include a machine that directly dispenses coins, cash or tokens.~~

16 Section 2. That § 42-7A-4 be amended to read as follows:

17 42-7A-4. The executive director may, subject to policy established by the commission:

18 (1) Supervise and administer the operation of the state lottery in accordance with the
19 provisions of this chapter;

20 (2) Employ all other employees of the South Dakota lottery;

21 (3) Enter into contracts for promotional services; annuities or other methods deemed
22 appropriate for the payment of prizes; data processing and other technical products,
23 equipment and services; and facilities as needed to operate the South Dakota lottery
24 including, without limitation, tickets and other services involved in major
25 procurements;

- 1 (4) Contract with and license persons for the sale of lottery tickets ~~and the offering of~~
2 ~~video lottery games~~ to the public, as provided by this chapter and rules adopted
3 pursuant thereto;
- 4 (5) Make demographic studies of lottery players and studies of reactions of citizens to
5 existing and potential features of the lottery;
- 6 (6) Require lottery retailers and persons licensed pursuant to this chapter to furnish proof
7 of financial stability or furnish surety in an amount based upon the expected volume
8 of sales of lottery tickets ~~or net machine income~~;
- 9 (7) Provide for secure facilities to house the South Dakota lottery;
- 10 (8) Provide for separate, distinct, and secure data processing facilities to be used for the
11 reliable operation of the state lottery;
- 12 (9) Examine, or cause to be examined by any agent or representative designated by the
13 executive director, any books, papers, records, or memoranda of any lottery retailer
14 or person licensed pursuant to this chapter for the purpose of ascertaining compliance
15 with any provision of this chapter or any rule adopted pursuant to this chapter;
- 16 (10) Issue subpoenas to compel access to or for the production of such books, papers,
17 records, or memoranda in the custody or control of any lottery retailer or person
18 licensed pursuant to this chapter, or to compel the appearance of any of their
19 employees, for the purpose of ascertaining compliance with any provision of this
20 chapter or any rule adopted pursuant to this chapter;
- 21 (11) Administer oaths and take depositions to the same extent and subject to the same
22 limitations as would apply if the deposition was in aid of a civil action in the circuit
23 court;
- 24 (11A) ~~The lottery commission shall operate a video lottery undertaken pursuant to this~~
25 ~~chapter and may not contract or assign this responsibility to any other person;~~

1 (12) Impose civil fines not to exceed ten thousand dollars per violation and fifteen
2 thousand dollars for any subsequent violation of any provision of this chapter or any
3 rule adopted pursuant to this chapter; and

4 (13) Enter into written agreements or compacts with one or more other states for the
5 operation, marketing, and promotion of a joint lottery or joint lottery games.

6 Section 3. That § 42-7A-13 be amended to read as follows:

7 42-7A-13. To be selected as a lottery retailer ~~or video lottery machine operator~~, a natural
8 person acting as a sole proprietor shall:

9 (1) Be at least eighteen years of age;

10 (2) Be of good character and reputation;

11 (3) Have sufficient financial resources to support the activities required to sell lottery
12 tickets ~~or place and service video lottery machines~~; and

13 (4) Be current in payment of all taxes, interest, and penalties owed to the State of South
14 Dakota, excluding items under formal dispute or appeal pursuant to applicable
15 statutes.

16 A lottery retailer ~~or video lottery machine operator~~ may not be a lottery vendor or an
17 employee or agent of any lottery vendor doing business with the South Dakota Lottery.

18 Section 4. That § 42-7A-15 be amended to read as follows:

19 42-7A-15. For a partnership to be selected as a lottery retailer ~~or video lottery machine~~
20 ~~operator~~, the partnership shall meet the requirements of subdivisions 42-7A-13(3) and (4), and
21 each partner thereof shall meet the requirements of subdivisions 42-7A-13(1) and (2) and
22 subdivisions 42-7A-14(1) to (5), inclusive.

23 Section 5. That § 42-7A-16 be amended to read as follows:

24 42-7A-16. For an association or corporation to be selected as a lottery retailer ~~or video~~
25 ~~lottery machine operator~~, the association or corporation shall meet the requirements of

1 subdivisions 42-7A-13(3) and (4), and each officer and director and each stockholder who owns
2 five percent or more of the stock of such association or corporation shall meet the requirements
3 of subdivisions 42-7A-13(1) and (2) and subdivisions 42-7A-14(1) to (5), inclusive.

4 Section 6. That § 42-7A-21 be amended to read as follows:

5 42-7A-21. The commission shall promulgate rules pursuant to chapter 1-26 governing the
6 establishment and operation of a state lottery as necessary to carry out the purposes of this
7 chapter. The commission shall promulgate rules concerning the following:

- 8 (1) The types of ticket lottery games to be conducted as authorized pursuant to this
9 chapter;
- 10 (2) The manner of selecting the winning tickets. However, if a lottery game utilizes a
11 drawing of winning numbers, a drawing among entries, or a drawing among finalists,
12 such drawings shall always be open to the public and shall be recorded on both video
13 and audio tape;
- 14 (3) The manner of payment of prizes to the holders of winning tickets;
- 15 (4) The frequency of the drawings or selections of winning tickets;
- 16 (5) The types of locations at which tickets may be sold;
- 17 (6) The methods to be used in selling tickets;
- 18 (7) Additional qualifications for the selection of lottery retailers, ~~video lottery machine~~
19 ~~manufacturers, distributors or operators~~ and the amount of application fees to be paid
20 by each;
- 21 (8) The amount and method of compensation to be paid to lottery retailers, including
22 special bonuses and incentives;
- 23 (9) Deadlines for claims for prizes by winners of each lottery game. However, in no
24 instance may such deadline be for more than one year;
- 25 ~~(10) The mechanical and electronic specifications for each video lottery machine. At a~~

1 ~~minimum, each video lottery machine shall meet the requirements of § 42-7A-37;~~

2 ~~—(11) Machine security testing and inspection procedures;~~

3 ~~—(12) Liability for machine malfunction;~~

4 ~~—(13) Machine maintenance and repair;~~

5 ~~—(14) Financial responsibility of persons licensed under this chapter;~~

6 ~~—(15) Accounting procedures for net machine income;~~

7 ~~—(16) Licensing procedures under this chapter; and~~

8 (17) Such other matters necessary or desirable for the efficient or economical operation of
9 the lottery or for the convenience of the public.

10 Section 7. That § 42-7A-24 be amended to read as follows:

11 42-7A-24. Net proceeds from the sale of instant lottery tickets shall be transferred to the
12 state general fund on an annual basis after July first each year. The commission shall maximize
13 the net proceeds to the state from the sale of instant and on-line lottery tickets. In no event may
14 yearly lottery expenses for the sale of lottery tickets, excluding expenditures from retained
15 earnings, exceed the amount of combined net proceeds transferred to the state general fund, the
16 state corrections facility construction fund, and the state capital construction fund. ~~Net machine~~
17 ~~income from video lottery games shall be directly deposited in the state property tax reduction~~
18 ~~fund upon receipt.~~ Net proceeds are funds in the lottery operating fund which are not needed for
19 the payment of prizes, lottery expenses, and total retained earnings up to one and one-half million
20 dollars cash deemed necessary by the executive director and commission for replacement,
21 maintenance and upgrade of business systems, product development, legal, and operating
22 contingencies of the lottery.

23 Beginning in fiscal year 1997 and each year thereafter, the commission shall transfer the first
24 one million four hundred thousand dollars from the net proceeds from the sale of on-line ~~video~~
25 lottery tickets collected pursuant to § 42-7A-24 to the general fund. The commission shall then

1 transfer an amount equal to the remaining net proceeds from the sale of on-line lottery tickets
2 collected pursuant to § 42-7A-24 to the state capital construction fund created in § 5-27-1.

3 Section 8. That § 42-7A-36 be amended to read as follows:

4 42-7A-36. No person may have in ~~his~~ possession, custody, or under ~~his~~ the person's control
5 or permit to be kept in any place under ~~his~~ the person's possession or control, any device that
6 awards credits and contains a circuit, meter, or switch capable of removing and recording the
7 removal of credits when the award of credits is dependent upon chance. A violation of this
8 section is a Class 6 felony. All devices described in this section are hereby declared to be public
9 nuisances. ~~The provisions of this section do not apply to devices or electronic video game~~
10 ~~machines licensed pursuant to this chapter.~~

11 Section 9. That § 42-7A-56 be amended to read as follows:

12 42-7A-56. The Legislature hereby finds, and declares to be the public policy of this state that:

13 (1) The success of the South Dakota Lottery is dependent upon public confidence and
14 trust that it is conducted honestly and free from criminal and corruptive elements;

15 (2) Public confidence and trust can only be maintained by strict regulation of all persons,
16 locations, practices, associations and activities related to the sale of lottery products
17 ~~and the operation, manufacturing and distribution of video lottery games and~~
18 ~~equipment;~~ and

19 (3) No applicant for a license or other affirmative commission action has any right to a
20 license or to the granting of the approval sought. Any license issued or other
21 commission approval granted pursuant to the provisions of this chapter is a revocable
22 privilege, and no holder acquires any vested interest or property right therein or
23 thereunder.

24 Section 10. That §§ 35-4-103, 42-7A-37 to 42-7A-48, inclusive, 42-7A-57, 42-7A-58, 42-
25 7A-59, and 42-7A-61 to 42-7A-65, inclusive, be repealed.

1 **BILL HISTORY**

2 1/28/99 First read in House and referred to State Affairs. H.J. 242

3 2/8/99 Scheduled for Committee hearing on this date.

4 2/17/99 Scheduled for Committee hearing on this date.

5 2/17/99 State Affairs Do Pass Amended, Passed, AYES 8, NAYS 4. H.J. 560

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

912C0738

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB1240** - 2/18/99

Introduced by: Representatives Cutler, Chicoine, Crisp, Diedrich (Larry), Haley, Kazmerzak, Koskan, McNenny, and Waltman and Senators Frederick, Benson, Bogue, Drake, Duxbury, Flowers, Hutmacher, Kleven, and Symens

1 FOR AN ACT ENTITLED, An Act to declare that the South Dakota Oilseeds Council, the
2 South Dakota Soybean Research and Promotion Council, and the South Dakota Corn
3 Utilization Council, are not agencies of the State of South Dakota, to repeal their rulemaking
4 authority, and to revise other provisions relating to them and the Department of Agriculture.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

6 Section 1. That § 38-27-6 be amended to read as follows:

7 ~~38-27-6. Compensation for the oilseeds council shall be paid pursuant to § 4-7-10.4. The~~
8 ~~compensation of the secretary shall be paid by funds of the Department of Agriculture. The~~
9 ~~council may reimburse its members for reasonable expenses incurred in connection with~~
10 ~~performing their duties as council members.~~

11 Section 2. That § 38-27-7 be amended to read as follows:

12 38-27-7. Funds collected pursuant to this chapter shall be deposited with the state treasurer
13 in a special fund known as the "oilseeds fund." Any funds remaining in the "sunflower fund" shall
14 be transferred to the "oilseeds fund" upon implementation of the new fund. ~~Expenditures of these~~
15 ~~funds shall be made in accordance with the provisions of chapter 4-7. Funds deposited with the~~

1 state treasurer in the oilseed fund shall be paid each month to the council or to an account
 2 designated by the council. The council shall annually submit a financial report and informational
 3 budget along with an audit to the secretary of agriculture. However, the council is not required
 4 to submit an audit, if the Department of Legislative Audit elects to perform the audit.

5 Section 3. That § 38-27-8 be amended to read as follows:

6 38-27-8. ~~In the administration of this chapter, the~~ The oilseeds council ~~may~~ is not an agency
 7 of the State of South Dakota and may independently:

- 8 (1) Contract and cooperate with any person or with any governmental department or
 9 agency for research, education and transportation;
- 10 (2) Expend the funds collected pursuant to this chapter and appropriated for its
 11 administration;
- 12 (3) Appoint, discharge, fix compensation for, and prescribe the duties of personnel as
 13 necessary, ~~subject to approval of the secretary;~~
- 14 (4) Accept donations of funds, property, services, or other assistance from public or
 15 private sources for the purpose of furthering the objectives of the council.

16 Section 4. That § 38-27-8.1 be repealed.

17 ~~38-27-8.1. The council may promulgate rules pursuant to chapter 1-26 concerning:~~

- 18 ~~(1) The procedures for obtaining a declaratory ruling;~~
- 19 ~~(2) The procedures for assessments collected for sunflowers, safflowers, canola or flax~~
 20 ~~grown or sold to a first purchaser;~~
- 21 ~~(3) The procedures for obtaining a refund of the assessment;~~
- 22 ~~(4) The procedures for collecting delinquent assessments and assessing penalties; and~~
- 23 ~~(5) The record-keeping and reporting requirements of first purchasers.~~

24 Section 5. That § 38-27-14 be amended to read as follows:

25 38-27-14. Any first purchaser shall keep as a part of his permanent records a permanent

1 record of all purchases of raw sunflowers, safflowers, canola, or flax, which may be examined
2 by the oilseeds council at any reasonable time. The first purchaser shall report to the council
3 stating the quantity of sunflowers, safflowers, canola, or flax received by ~~him~~ the first purchaser.
4 The report and remittance of the assessment shall be made at the times and in the manner
5 prescribed by the council ~~pursuant to rules promulgated pursuant to chapter 1-26~~. The council
6 may implement procedures, including:

- 7 (1) Assessments collected by sunflowers, safflowers, canola, or flax grown or sold to a
8 first purchaser;
- 9 (2) Obtaining a refund of the assessment;
- 10 (3) Collecting delinquent assessments and assessing penalties; and
- 11 (4) Record-keeping and reporting requirements of first purchasers.

12 Section 6. That § 38-29-6 be amended to read as follows:

13 38-29-6. Moneys collected from checkoff fees shall be deposited in a special revolving fund
14 created in the state treasury and ~~shall be~~ are continuously appropriated to the soybean research
15 and promotion council. ~~Expenditures of these funds shall be made in accordance with the~~
16 provisions of Title 4. Funds deposited in the special revolving fund in the state treasury shall be
17 paid each month to the council or to an account designated by the council. The council shall
18 annually submit a financial report and informational budget along with an audit to the secretary
19 of agriculture. However, the council is not required to submit an audit, if the Department of
20 Legislative Audit elects to perform the audit.

21 Section 7. That § 38-29-7 be amended to read as follows:

22 38-29-7. The Soybean Research and Promotion Council ~~may~~ is not an agency of the State
23 of South Dakota and may independently:

- 24 (1) Enter into contracts, including loans and grants, and cooperate with any person, any
25 local, state, or national organization, whether public or private, or with any

1 governmental department or agency for the discovery, promotion, development, and
2 expansion of domestic and export markets and industries and for research, education,
3 and transportation;

4 (2) Expend the funds collected pursuant to this chapter and appropriated for its
5 administration;

6 (3) Appoint, employ, discharge, fix compensation for, and prescribe the duties of such
7 personnel as it may deem necessary;

8 (4) Accept donations of funds, property, services, or other assistance from public or
9 private sources for the purpose of furthering the objectives of the council;

10 (5) Lease, purchase, own, maintain, operate, and dispose of equipment and supplies
11 necessary to carry out the provisions of this chapter.

12 Section 8. That § 38-29-7.1 be repealed.

13 ~~38-29-7.1. The council may promulgate rules pursuant to chapter 1-26 concerning:~~

14 ~~(1) The procedures for obtaining a declaratory ruling;~~

15 ~~(2) The procedures for assessments collected for soybeans grown or sold to a first~~
16 ~~purchaser;~~

17 ~~(3) The procedures for obtaining a refund of the assessment;~~

18 ~~(4) The procedures for collecting delinquent assessments and assessing penalties;~~

19 ~~(5) The record-keeping and reporting requirements of first purchasers; and~~

20 ~~(6) The requirements governing grants and loans made pursuant to § 38-29-7, including~~
21 ~~eligibility requirements and requirements for application, awards, and administration.~~

22 Section 9. That § 38-29-11 be amended to read as follows:

23 38-29-11. Any first purchaser shall keep as a part of his permanent records a record of all
24 purchases of raw soybeans, which may be examined by the soybean research and promotion
25 council at any reasonable time. Every first purchaser shall report to the council stating the

1 quantity of soybeans received by ~~him~~ the first purchaser. The report and remittance of the
2 assessment shall be made at the times and in the manner prescribed by the council ~~pursuant to~~
3 ~~administrative rules promulgated pursuant to chapter 1-26~~. The council may implement
4 procedures, including:

- 5 (1) Assessments collected for soybeans grown or sold to a first purchaser;
- 6 (2) Obtaining a refund of the assessment;
- 7 (3) Collecting delinquent assessments and assessing penalties;
- 8 (4) Record-keeping and reporting requirements of first purchasers; and
- 9 (5) Requirements governing grants and loans made pursuant to § 38-29-7, including
10 eligibility requirements and requirements for application, awards, and administration.

11 Section 10. That § 38-32-3.2 be amended to read as follows:

12 38-32-3.2. If voting at the designated time and place would cause a hardship on any eligible
13 voter, the council shall allow for absentee voting on forms, and in a manner, prescribed in rule
14 by the council. Absentee ballots shall be returned either to the council office no later than five
15 calendar days ~~prior to~~ before the day of the election or to the polling location ~~prior to~~ before the
16 close of the polls. The council shall ensure that any absentee ballot it has received within the
17 deadline specified in this section is delivered to the appropriate polling place ~~prior to~~ before the
18 close of the polls. No absentee ballot that is received at the polling place after the close of the
19 polls may be counted in the election results.

20 Section 11. That § 38-32-12 be amended to read as follows:

21 38-32-12. Moneys collected from checkoff fees shall be deposited in a special revolving fund
22 created in the state treasury and ~~shall be~~ are continuously appropriated to the council.
23 ~~Expenditures of these funds shall be made in accordance with the provisions of Title 4~~. Moneys
24 deposited in the special revolving fund in the state treasury shall be paid each month to the
25 council or to an account designated by the council. The council shall annually submit a financial

1 report and informational budget along with an audit to the secretary of agriculture. However,
 2 the council is not required to submit an audit, if the Department of Legislative Audit elects to
 3 perform the audit.

4 Section 12. That § 38-32-13 be amended to read as follows:

5 38-32-13. The council ~~may, but is not limited to~~ is not an agency of the State of South
 6 Dakota and may independently:

- 7 (1) Contract and cooperate with any person, organization or with any governmental
 8 department or agency for market maintenance and expansion, research, education,
 9 transportation, and for the prevention, modification, or elimination of trade barriers
 10 which obstruct the free flow of corn and corn products to market;
- 11 (2) Expend the funds collected pursuant to this chapter and appropriated for its
 12 administration;
- 13 (3) Appoint, discharge, fix compensation for, and prescribe the duties of such personnel
 14 as it may deem necessary;
- 15 (4) Accept donations of funds, property, services, or other assistance from public or
 16 private sources for the purpose of furthering the objectives of the council.

17 Section 13. That § 38-32-14 be repealed.

18 ~~38-32-14. The council may promulgate rules pursuant to chapter 1-26 concerning:~~

- 19 ~~(1) The procedures for obtaining a declaratory ruling;~~
- 20 ~~(2) The procedures for assessments collected for corn sold to a first purchaser;~~
- 21 ~~(3) The procedures for obtaining a refund of the assessment;~~
- 22 ~~(4) The procedures for collecting delinquent assessments and assessing penalties;~~
- 23 ~~(5) The record keeping and reporting requirements of first purchasers; and~~
- 24 ~~(6) Procedures, forms, public notices and other requirements for nominating director~~
 25 ~~candidates and for conducting and certifying elections.~~

1 Section 14. That § 38-32-18 be amended to read as follows:

2 38-32-18. Any first purchaser shall keep as a part of its permanent records a record of all
3 purchases of corn, which may be examined by the council at any reasonable time. Every first
4 purchaser shall report to the council stating the quantity of corn received by the first purchaser.
5 The report and remittance of the assessment shall be made at the times and in the manner
6 prescribed by the council ~~pursuant to administrative rules promulgated pursuant to chapter 1-26.~~

7 The council may implement procedures, including:

- 8 (1) Assessments collected for corn sold to a first purchaser;
- 9 (2) Obtaining a refund of the assessment;
- 10 (3) Collecting delinquent assessments and assessing penalties;
- 11 (4) Record-keeping and reporting requirements of first purchasers; and
- 12 (5) Procedures, forms, public notices, and other requirements for nominating director
13 candidates and for conducting and certifying elections.

14 Section 15. That § 38-32-22 be amended to read as follows:

15 38-32-22. ~~Members of the corn utilization council shall receive per diem compensation~~
16 ~~pursuant to § 4-7-10.4 and shall be reimbursed for necessary expenses incurred in performing~~
17 ~~the duties prescribed by this chapter. The provisions of this section shall be retroactive in effect~~
18 ~~to July 1, 1988. The council may reimburse its members for reasonable expenses incurred in~~
19 connection with performing their duties as council members.

1 **BILL HISTORY**

2 1/28/99 First read in House and referred to committee assignment waived. H.J. 243

3 1/29/99 Referred to State Affairs. H.J. 266

4 2/3/99 Scheduled for Committee hearing on this date.

5 2/5/99 Scheduled for Committee hearing on this date.

6 2/5/99 State Affairs Deferred to another day.

7 2/8/99 Scheduled for Committee hearing on this date.

8 2/10/99 Scheduled for Committee hearing on this date.

9 2/12/99 Scheduled for Committee hearing on this date.

10 2/16/99 Scheduled for Committee hearing on this date.

11 2/16/99 State Affairs Do Pass Amended, Passed, AYES 10, NAYS 3. H.J. 558

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

329C0815 **HOUSE AGRICULTURE AND NATURAL RESOURCES**
COMMITTEE ENGROSSED NO. HB1273 - 2/17/99

Introduced by: Representatives Crisp and Koskan and Senator Frederick

1 FOR AN ACT ENTITLED, An Act to revise certain provisions and an inspection fee regarding
2 moisture-measuring devices and protein-measuring devices.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 38-31-1 be amended to read as follows:

5 38-31-1. Terms used in this chapter, ~~unless the context otherwise requires,~~ mean:

6 (1) "Agricultural commodity," any grain or seed which is ordinarily tested for moisture
7 content when offered for sale, processing, or storage;

8 (2) "Department," the Department of Agriculture;

9 (3) "Moisture-measuring devices," any ~~electronic~~ device or instrument used in
10 ascertaining the moisture content of agricultural commodities;

11 (4) "Protein-measuring devices," any ~~electronic~~ device or instrument used in ascertaining
12 the protein content of agricultural commodities;

13 (5) "Secretary" the secretary of the Department of Agriculture.

14 Section 2. That § 38-31-2 be amended to read as follows:

15 38-31-2. The department may upon the written request of any elevator or upon the written
16 complaint and request of any individual selling agricultural commodities, inspect any

1 moisture-measuring device or protein-measuring device used in commerce in this state, except
2 those belonging to the United States. The department may inspect at the convenience of the
3 department any moisture-measuring or protein-measuring device.

4 Section 3. That § 38-31-3 be amended to read as follows:

5 38-31-3. If an inspection or comparative test reveals that the moisture-measuring device or
6 protein-measuring device being inspected or tested conforms to the standards and specifications
7 established by the department, the ~~department device~~ shall ~~mark it~~ be marked with an appropriate
8 seal. Any moisture-measuring device or protein-measuring device which upon inspection is found
9 not to conform with the specifications and standards established by the department shall be
10 marked with an appropriate seal showing the device to be defective, which seal may not be
11 altered or removed until the device is properly repaired and reinspected. The owner or user of
12 ~~such the defective~~ device shall be notified in writing on the date of the inspection of ~~such the~~
13 defective condition ~~by the department~~ on an inspection form prepared by the ~~department~~
14 inspector.

15 Section 4. That § 38-31-5 be amended to read as follows:

16 38-31-5. A fee not to exceed ~~twenty-five~~ one hundred dollars may be charged for each device
17 subject to inspection under the provisions of this chapter and rules promulgated thereunder. The
18 inspection fee for an inspection requested pursuant to § 38-31-2 shall be paid by the person
19 requesting the inspection. The department shall establish the amount of the fee by rule
20 promulgated in accordance with chapter 1-26.

21 Section 5. Fees collected pursuant to § 38-31-5 shall be remitted at the end of each month
22 to the state treasurer and deposited in the moisture and protein tester fund, which is hereby
23 created. Expenditures from the fund shall be appropriated through the normal appropriation
24 process. Unexpended funds and interest shall remain in the fund until appropriated by the
25 Legislature.

1 **BILL HISTORY**

2 2/1/99 First read in House and referred to Agriculture and Natural Resources. H.J. 282

3 2/16/99 Scheduled for Committee hearing on this date.

4 2/16/99 Agriculture and Natural Resources Do Pass Amended, Passed, AYES 12, NAYS 1.

5 H.J. 536

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

991C0850

HOUSE HEALTH AND HUMAN SERVICES

COMMITTEE ENGROSSED NO. **HB1282** - 2/18/99

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsors.

Introduced by: Representative Michels and Senator Everist

1 FOR AN ACT ENTITLED, An Act to revise the confidentiality related to certain patient
2 records.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 36-4-26.2 be amended to read as follows:

5 36-4-26.2. Section 36-4-26.1 ~~applies neither to facts associated with a patient's treatment and~~
6 ~~care nor to patient records prepared in conjunction with~~ does not apply to observations made at
7 the time of treatment by a health care professional present during the patient's treatment or to
8 patient records prepared during the treatment and care rendered to a patient who is personally
9 or by personal representative a party to an action or proceeding, the subject matter of which is
10 the care and treatment of the patient. Furthermore, ~~after the notification of adverse parties as~~
11 ~~hereinafter provided, § 36-4-26.1 does not apply to the proceedings, records, reports,~~
12 ~~statements, minutes, or other data of any~~ no member of any committee, department, section,
13 board of directors, or group covered by § 36-4-26.1, in so far as they relate to the statements or
14 opinions of a member thereof made or rendered at its meeting, if the member is called as a
15 witness on behalf of any party in an action involving the quality, type, or necessity of such care
16 rendered. However:

1 ~~(1) Such information may only be used to impeach the testimony of such witness; and~~
2 ~~(2) Such witness may not testify unless the party calling the witness has notified all~~
3 ~~adverse parties to the action at least thirty days before trial of the person's intention~~
4 ~~to use such witness who has participated in deliberations under that section involving~~
5 ~~the subject matter of the action, may testify as an expert witness for any party in any~~
6 ~~action for personal injury or wrongful death, the subject matter of which is the care~~
7 ~~and treatment of the patient.~~

1 **BILL HISTORY**

2 2/1/99 First read in House and referred to committee assignment waived. H.J. 284

3 2/2/99 Referred to Health and Human Services. H.J. 318

4 2/10/99 Scheduled for Committee hearing on this date.

5 2/12/99 Scheduled for Committee hearing on this date.

6 2/12/99 Health and Human Services Do Pass Amended, Failed, AYES 6, NAYS 5.

7 2/17/99 Health and Human Services Hog Housed.

8 2/17/99 Scheduled for Committee hearing on this date.

9 2/17/99 Health and Human Services Do Pass Amended, Passed, AYES 11, NAYS 1. H.J. 563

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

176C0870

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB1292** - 2/18/99

Introduced by: Representative Eccarius

1 FOR AN ACT ENTITLED, An Act to make legislative findings and recommendations for
2 improvement to the 911 emergency notification system and to provide for the development
3 of a statewide comprehensive plan.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That chapter 34-45 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 The Legislature finds there is a current and immediate need for a statewide integrated and
8 coordinated interoperable public safety communications network. This system should provide
9 voice, data, and radio communications links to all responding agencies that deliver emergency
10 services within South Dakota. The network should allow a public safety answering point to
11 communicate with any emergency responder within the geographic boundaries of South Dakota.
12 The network should also provide for communications between responding agencies who render
13 assistance outside of their normal jurisdiction and public safety answering points.

14 There is a present need for a comprehensive telecommunications plan to facilitate and
15 optimize the structure and utilization of statewide integrated telecommunications networks and
16 services. Such a plan should consider and encompass current and future communications

1 technology, the development of technical and operational standards for such a network,
2 oversight of public safety answering points, and relevant regulatory issues. The Bureau of
3 Information and Telecommunications shall develop in cooperation with the groups identified in
4 section 3 of this Act such a plan by November 1, 1999.

5 Section 2. That chapter 34-45 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 The State of South Dakota shall by July 1, 2001, integrate telecommunications functions and
8 facilities of those state agencies, which currently operate their own systems, into one cohesive
9 and integrated network. These agencies currently include State Radio Communications in the
10 Office of the Attorney General; the Bureau of Information and Telecommunications; the Division
11 of Emergency Management in the Department of Military and Veterans Affairs; Public
12 Broadcasting in the Bureau of Information and Telecommunications; the Department of Game,
13 Fish and Parks; the Department of Transportation; the Division of Forestry in the Department
14 of Agriculture; and the Highway Patrol in the Department of Commerce and Regulation.

15 Section 3. That chapter 34-45 be amended by adding thereto a NEW SECTION to read as
16 follows:

17 The South Dakota 911 Coordinated Statewide System Task Force created pursuant to § 34-
18 45-18 is hereby continued and shall be expanded to include at least one representative from each
19 of the following groups: Division of Highway Patrol, telecommunications companies, municipal
20 government, police chiefs, county government, sheriffs, fire services, emergency managers,
21 emergency medical technicians, and existing public safety answering points. The task force shall
22 review the comprehensive telecommunications plan, conduct public hearings, and seek additional
23 public input as deemed appropriate.

24 Section 4. That chapter 34-45 be amended by adding thereto a NEW SECTION to read as
25 follows:

1 The comprehensive telecommunications plan shall review current configurations of enhanced
2 911 centers throughout South Dakota, as well as for the provision of service to areas not
3 presently served by a 911 center. The plan shall identify the costs, funding, services, and
4 timetable for implementation of recommended configurations or other proposed changes.

5 Section 5. That chapter 34-45 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 Each public safety answering point shall obtain a full audit report on 911 traffic from its
8 telephone service provider and provide that information to the Bureau of Information and
9 Telecommunications for use in the preparation of the comprehensive telecommunications plan.
10 Each public safety answering point shall provide the audit report to the bureau no later than
11 August 2, 1999.

12 Section 6. That chapter 34-45 be amended by adding thereto a NEW SECTION to read as
13 follows:

14 The comprehensive telecommunications plan shall further be based on the following goals:

- 15 (1) Enhanced 911 services shall be available from every telephone in South Dakota;
- 16 (2) All wireline and wireless customers shall reach an enhanced 911 center when they
17 initiate a request for emergency services, by dialing 911; and
- 18 (3) All enhanced 911 services and facilities within the state shall conform to minimum
19 technical, operational, and procedural standards.

20 Section 7. That chapter 34-45 be amended by adding thereto a NEW SECTION to read as
21 follows:

22 The Legislature finds and determines that modern technology allows for universal statewide
23 access to enhanced 911 services. The Legislature seeks the fewest number of public safety
24 answering points, without causing any loss or degradation in the quality and level of service
25 presently received by the public. The comprehensive telecommunications plan shall recommend

1 a configuration of public safety answering points in South Dakota based on a set of minimum
2 technical, operational, and procedural standards.

3 Section 8. The Legislature shall approve the comprehensive telecommunications plan.

1 **BILL HISTORY**

2 2/1/99 First read in House and referred to committee assignment waived. H.J. 286

3 2/2/99 Referred to State Affairs. H.J. 318

4 2/16/99 Scheduled for Committee hearing on this date.

5 2/16/99 State Affairs Do Pass Amended, Passed, AYES 13, NAYS 0. H.J. 559

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

916C0864

HOUSE JUDICIARY COMMITTEE ENGROSSED NO. **HB1296** - 2/18/99

Introduced by: Representatives Fitzgerald, Brown (Jarvis), Duniphan, Earley, Peterson, and Volesky and Senators Munson (David), Everist, Frederick, and Lawler

1 FOR AN ACT ENTITLED, An Act to restrict certain criminal liability for alcoholic beverage
2 licensees and to provide for administrative sanctions.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. A licensee, licensed pursuant to subdivision 35-4-2(3), (4), (5), (6), (11), (12),
5 (13), (16), (17), or (18), is not in violation of § 35-4-78, and no criminal penalty may be imposed
6 on the licensee if:

7 (1) The person making the sale in violation of § 35-4-78 is an employee or agent of the
8 licensee;

9 (2) The employee or agent does not own a controlling interest in the licensee; and

10 (3) The licensee or person having a controlling interest in the licensee is not present at the
11 time of the sale.

12 Section 2. If a sale is in violation of § 35-4-78 and does not constitute a criminal offense
13 against the licensee, the state's attorney for the county in which the sale took place may as part
14 of any proceeding against the person making the sale request that the court require the licensee
15 to pay a fine in accordance with this Act.

16 Section 3. Upon a request from the state's attorney and notice to the licensee, the court shall

1 conduct a hearing to determine if the licensee is liable under this Act, and upon a finding that the
2 licensee is liable, the court may order the licensee to pay a fine not to exceed:

- 3 (1) Three hundred dollars upon the first violation within two years;
- 4 (2) Five hundred dollars upon the second violation within two years; and
- 5 (3) One thousand dollars for the third violation within two years.

6 Section 4. For the purpose of this Act, a controlling interest in the licensee means an
7 ownership interest of ten percent or more.

1 **BILL HISTORY**

2 2/1/99 First read in House and referred to committee assignment waived. H.J. 287

3 2/2/99 Referred to Judiciary. H.J. 319

4 2/8/99 Scheduled for Committee hearing on this date.

5 2/10/99 Scheduled for Committee hearing on this date.

6 2/10/99 Judiciary Deferred to another day.

7 2/12/99 Scheduled for Committee hearing on this date.

8 2/17/99 Scheduled for Committee hearing on this date.

9 2/17/99 Judiciary Do Pass Amended, Passed, AYES 12, NAYS 0. H.J. 564

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

547C0803

HOUSE COMMERCE COMMITTEE ENGROSSED NO.

HB1302 - 2/18/99

Introduced by: Representatives Garnos, Eccarius, and Wilson and Senators Rounds and
Dennert

1 FOR AN ACT ENTITLED, An Act to prohibit certain deceptive advertising in telephone
2 directories.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 37-24-6 be amended by adding thereto a NEW SUBDIVISION to read as
5 follows:

6 Knowingly advertise or cause to be listed through the internet or in a telephone directory a
7 business address or local telephone number that misrepresents where the business is actually
8 located or operating or that falsely states that the business is located or operating in the same
9 area covered by the telephone directory. This subdivision does not apply to a telephone service
10 provider, an internet service provider, or a publisher or distributor of a telephone directory,
11 unless the conduct proscribed in this subdivision is on behalf of the provider, publisher, or
12 distributor. This subdivision does not apply to a person or telephone service provider that lists,
13 in a telephone directory, a local telephone number that forwards calls to provide customer
14 service.

1 **BILL HISTORY**

2 2/1/99 First read in House and referred to committee assignment waived. H.J. 288

3 2/2/99 Referred to Commerce. H.J. 319

4 2/16/99 Scheduled for Committee hearing on this date.

5 2/16/99 Commerce Deferred to 41st legislative day.

6 2/16/99 Commerce Tabled, AYES 7, NAYS 6. H.J. 532

7 2/18/99 Commerce Removed from Table, AYES 13, NAYS 0.

8 2/18/99 Commerce Do Pass Amended, Passed, AYES 13, NAYS 0.

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

400C0291

SENATE ENGROSSED NO. **SB27** - 2/2/99

Introduced by: The Committee on Education at the request of the Board of Regents

1 FOR AN ACT ENTITLED, An Act to require the conduct of criminal background checks for
2 certain persons employed by the Board of Regents.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 13-49 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Each person hired at the South Dakota School for the Blind and Visually Impaired and the
7 South Dakota School for the Deaf to serve as superintendent or principal, in a teaching or
8 teaching assistant position, in a certificated or licensed clinical employment position, or on the
9 residence hall staff in any capacity shall agree to submit to a background investigation, by means
10 of fingerprint checks by the Division of Criminal Investigation and the Federal Bureau of
11 Investigation. The hiring institution shall submit completed fingerprint cards to the Division of
12 Criminal Investigation before the prospective new employee enters into service. If no
13 disqualifying record is identified at the state level, the fingerprints shall be forwarded by the
14 Division of Criminal Investigation to the Federal Bureau of Investigation for a national criminal
15 history record check. Any person whose employment is subject to the requirements of this
16 section may enter into service on a temporary basis pending receipt of results from the
17 background investigation. The employing institution may, without liability, withdraw its offer of

1 employment or terminate the temporary employment without notice if the report reveals that the
2 person has been convicted of any crime involving moral turpitude, including traffic in narcotics,
3 that might justify suspension or revocation of a teaching license pursuant to § 13-42-10, or
4 otherwise reveals circumstances that reasonably suggest that the person should not be employed
5 in the special school setting.

1 **BILL HISTORY**

2 1/12/99 First read in Senate and referred to Education. S.J. 20

3 1/28/99 Scheduled for Committee hearing on this date.

4 1/28/99 Education Do Pass, Passed, AYES 4, NAYS 3. S.J. 227

5 1/29/99 Senate Deferred to another day. S.J. 261

6 2/1/99 Motion to Amend, Passed. S.J. 282

7 2/1/99 Senate Do Pass Amended, Passed, AYES 32, NAYS 1. S.J. 282

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

771C0075

SENATE LOCAL GOVERNMENT
COMMITTEE ENGROSSED NO. **SB34** -
1/19/99

Introduced by: The Committee on Local Government at the request of the State Board of Elections

1 FOR AN ACT ENTITLED, An Act to revise certain requirements concerning the certificate for
2 nomination and to provide certain rule-making authority.
3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:
4 Section 1. That § 12-7-1 be amended to read as follows:
5 12-7-1. Any candidate for nonjudicial public office who is not nominated by a primary
6 election may be nominated by filing with the secretary of state or county auditor as prescribed
7 by § 12-6-4, not prior to ~~May~~ January first at eight a.m. and not later than the ~~first Tuesday in~~
8 ~~August~~ third Tuesday in June at five p.m. prior to the election, a certificate of nomination, ~~in the~~
9 ~~form prescribed by the State Board of Elections and which shall otherwise be executed as~~
10 provided in chapter 12-6. If the certificate of nomination is mailed by registered mail by the ~~first~~
11 ~~Tuesday of August~~ third Tuesday in June at five p.m. prior to the election, it ~~shall be considered~~
12 ~~filed~~ is timely submitted. The certificate shall specify that an independent candidate for
13 nonjudicial public office shall designate the name of any national political party, or political party
14 organized pursuant to chapter 12-5, with which the candidate has an affiliation. If no affiliation
15 exists, the candidate shall ~~designate "independent."~~ be designated by the term, no party. It shall

1 be signed by ~~not less than one percent of the~~ registered voters ~~residing~~ within the district or
2 political subdivision in and for which the officers are to be elected, ~~based upon~~. The number of
3 signatures required may not be less than one percent of the total combined vote cast for
4 Governor at the last certified gubernatorial election within the district or political subdivision.
5 An independent candidate for Governor shall certify ~~his~~ the candidate's selection for lieutenant
6 governor to the secretary of state prior to circulation of ~~his~~ the candidate's nominating petition.
7 An independent candidate for President shall file a declaration of candidacy and a certification
8 of ~~his~~ the candidate's selection for vice president with the secretary of state prior to circulation
9 of ~~his~~ the candidate's nominating petitions. The candidate and the candidate's selection for
10 lieutenant governor or vice president shall sign the certification before it is filed. The State Board
11 of Elections shall promulgate rules pursuant to chapter 1-26 prescribing the forms for the
12 certificate of nomination and the certification for lieutenant governor and vice president.

1 **BILL HISTORY**

2 1/12/99 First read in Senate and referred to Local Government. S.J. 21

3 1/16/99 Scheduled for Committee hearing on this date.

4 1/16/99 Local Government Do Pass Amended, Passed, AYES 7, NAYS 0. S.J. 58

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

400C0323

**HOUSE HEALTH AND HUMAN SERVICES
COMMITTEE ENGROSSED NO. **SB53** -
2/18/99**

Introduced by: The Committee on Health and Human Services at the request of the Department of Human Services

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the apprehension and
2 transportation of a person believed to require emergency intervention.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 27A-10 be amended by adding thereto a NEW SECTION to read
5 as follows:

6 If a competent person agrees to receive treatment at the Human Services Center and the
7 treatment is arranged with the center but upon arrival the person does not consent to admission
8 or if a person agrees to accept treatment at the center and the treatment is arranged but upon
9 arrival the person is examined and found not competent to consent to admission, if there is no
10 next of kin available or if there is next of kin available but the person does not consent to
11 admission, and if the attending psychiatrist has probable cause to believe that the person requires
12 emergency intervention under the criteria in § 27A-10-1, the center may be used as an
13 appropriate regional facility.

1 **BILL HISTORY**

2 1/12/99 First read in Senate and referred to Health and Human Services. S.J. 25

3 1/16/99 Scheduled for Committee hearing on this date.

4 1/16/99 Health and Human Services Do Pass, Passed, AYES 7, NAYS 0. S.J. 60

5 1/19/99 Senate Do Pass, Passed, AYES 29, NAYS 5. S.J. 120

6 1/20/99 First read in House and referred to Health and Human Services, AYES 0, NAYS 0.

7 H.J. 101

8 2/17/99 Scheduled for Committee hearing on this date.

9 2/17/99 Health and Human Services Do Pass Amended, Passed, AYES 11, NAYS 0. H.J. 564

10 2/17/99 Health and Human Services Place on Consent Calendar.

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

178C0494

SENATE JUDICIARY COMMITTEE ENGROSSED NO. **SB79** - 1/30/99

Introduced by: Senators Albers, Ham, and Vitter and Representatives Weber and Engbrecht

1 FOR AN ACT ENTITLED, An Act to revise the liability for misdemeanor violations of certain
2 provisions concerning the illegal sale or distribution of tobacco products.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 34-46-5 be amended to read as follows:

5 34-46-5. A violation of § 34-46-2 is a Class 2 misdemeanor. A person is not liable for more
6 than one violation of § ~~34-46-2~~ subdivision 34-46-2(4) on a single day. Reasonable reliance upon
7 proof of age of the purchaser or the recipient of a tobacco product is a complete defense to any
8 action brought against a person for the sale or distribution of a tobacco product to a person
9 under the age of eighteen.

10 Section 2. That chapter 34-46 be amended by adding thereto a NEW SECTION to read as
11 follows:

12 No person may be charged with more than one violation in any twenty-four hour period
13 which results from sales to persons purchasing during unannounced random inspections.

1 **BILL HISTORY**

2 1/21/99 First read in Senate and referred to Judiciary. S.J. 144

3 1/25/99 Scheduled for Committee hearing on this date.

4 1/25/99 Judiciary Do Pass Amended, Passed, AYES 5, NAYS 2. S.J. 174

5 1/27/99 Referred to Judiciary. S.J. 221

6 1/29/99 Scheduled for Committee hearing on this date.

7 1/29/99 Judiciary Do Pass Amended, Passed, AYES 7, NAYS 0. S.J. 251

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

925C0042

SENATE JUDICIARY COMMITTEE ENGROSSED NO. **SB80** - 1/25/99

Introduced by: Senators Albers, Benson, Ham, Kleven, Staggers, and Vitter and
Representatives Hennies, Engbrecht, and Weber

1 FOR AN ACT ENTITLED, An Act to clarify certain provisions relating to the disposition of
2 certain controlled weapons or firearms.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 23A-37-9 be amended to read as follows:

5 23A-37-9. Articles of contraband or property of an illegal nature shall be destroyed, except
6 that any articles which are capable of lawful use may in the discretion of the court be sold and
7 the proceeds disposed of as provided in § 23A-37-10. ~~If there is no claimant or if the right to~~
8 ~~possession or ownership of seized controlled weapon or firearm cannot be determined after a~~
9 ~~reasonable period of time, the controlled weapon or firearm shall be delivered to the state~~
10 ~~forensic laboratory within the office of attorney general. The state forensic laboratory may retain~~
11 ~~the controlled weapon or firearm for scientific examination purposes or destroy the firearm or~~
12 ~~controlled weapon. However, the provisions of § 23A-37-13 apply to any controlled weapon or~~
13 ~~firearm.~~

14 Section 2. That § 23A-37-13 be amended to read as follows:

15 23A-37-13. Any controlled weapon or firearm used in violation of chapter 22-14 shall be
16 disposed of as follows:

- 1 (1) If it is stolen, it shall be returned to the lawful owner upon proof of ownership; or
- 2 (2) If it is illegal, it shall be destroyed pursuant to law; or
- 3 (3) If it is neither stolen nor illegal, it shall be delivered to the arresting agency or, at the
- 4 direction of the attorney general, to the South Dakota Forensic Laboratory for
- 5 scientific examination purposes, for lawful use or disposal.

6 In the case of a disposition pursuant to subdivision (3), the arresting agency may use,

7 trade-in, or destroy the controlled weapon or firearm.

1 **BILL HISTORY**

2 1/21/99 First read in Senate and referred to Judiciary. S.J. 144

3 1/25/99 Scheduled for Committee hearing on this date.

4 1/25/99 Judiciary Do Pass Amended, Passed, AYES 7, NAYS 0. S.J. 174

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

264C0483

SENATE ENGROSSED NO. **SB95** - 2/2/99

Introduced by: Senators Kloucek, Dennert, Hutmacher, and Symens and Representatives Chicoine, Brown (Jarvis), Crisp, Haley, Koehn, Kooistra, Lucas, Nachtigal, Waltman, Weber, and Wilson

1 FOR AN ACT ENTITLED, An Act to regulate certain livestock packer transactions.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. Terms used in the Act mean:

4 (1) "Livestock," live cattle, swine, or sheep;

5 (2) "Packer," a person who is engaged in the business of slaughtering livestock or
6 receiving, purchasing, or soliciting livestock for slaughtering, the meat products of
7 which are directly or indirectly to be offered for resale or for public consumption.

8 Packer includes an agent of the packer engaged in buying or soliciting livestock for
9 slaughter on behalf of a packer. Packer does not include a cold storage plant or frozen
10 food locker plant.

11 Section 2. A packer purchasing or soliciting livestock for slaughter in this state may not
12 discriminate in prices paid or offered to be paid to sellers of that livestock. This section does not
13 apply to the sale and purchase of livestock if the following requirements are met:

14 (1) The price differential is based on the quality of the livestock, if the packer purchases
15 or solicits the livestock based upon a payment method specifying prices paid for
16 criteria relating to carcass merit; actual and quantifiable costs related to transporting

1 and acquiring the livestock by the packer; or an agreement for the delivery of
2 livestock at a specified date or time; and

3 (2) After making a differential payment to a seller, the packer publishes information
4 relating to the differential pricing, including the payment method for carcass merit,
5 transportation and acquisition pricing, and an offer to enter into an agreement for the
6 delivery of livestock at a specified date or time according to the same terms and
7 conditions offered to other sellers.

8 Section 3. A packer shall provide all sellers with the same terms and conditions offered to
9 a seller who receives a differential price based on any of the criteria described in section 2 of this
10 Act.

11 Section 4. A packer shall, at the end of each day during which livestock are purchased or
12 contracted, provide to the United States Department of Agriculture, agricultural market service
13 livestock market news branch, and the South Dakota Department of Agriculture, all prices paid
14 for livestock, both contract and direct purchased, that day.

15 Section 5. Any agreement made by a packer in violation of this Act is voidable. Any packer
16 acting in violation of this section is guilty of a fraudulent practice.

17 Section 6. The attorney general shall enforce the provisions of this Act and the Department
18 of Agriculture shall refer any violations of these provisions to the attorney general. The attorney
19 general or any person injured by a violation of these provisions may bring an action in circuit
20 court to restrain a packer from violating these provisions. A seller who receives a discriminatory
21 price or who is offered only a discriminatory price for livestock based upon a violation of these
22 provisions by a packer has a civil cause of action against the packer and, if successful, shall be
23 awarded treble damages.

24 Section 7. Any packer shall make available for publication and to the Department of
25 Agriculture, a daily report setting forth information regarding prices paid for livestock, under

1 each contract in force, in which the packer and a South Dakota resident are parties for the
2 purchase of the livestock by the packer, and which sets a date for delivery more than twenty days
3 after the making of the contract.

4 The reports shall be completed on forms prepared by the department for comparison with
5 cash market prices for livestock according to procedures required by the department in rules
6 promulgated pursuant to chapter 1-26. The report may not include information regarding the
7 identity of a seller.

8 A failure of a packer to report as required by this section is punishable by a civil penalty not
9 to exceed one thousand dollars for each day that a timely or truthful report is not published. The
10 department shall refer to the attorney general any packer or packer's agent who the department
11 believes is in violation of the provisions of this Act. The attorney general may, upon referral from
12 the department, file an action in circuit court to enforce these provisions.

1 **BILL HISTORY**

2 1/22/99 First read in Senate and referred to Agriculture and Natural Resources. S.J. 159

3 1/26/99 Scheduled for Committee hearing on this date.

4 1/28/99 Scheduled for Committee hearing on this date.

5 1/28/99 Agriculture and Natural Resources Do Pass Amended, Passed, AYES 8, NAYS 1.

6 S.J. 230

7 2/1/99 Motion to Amend, Passed. S.J. 286

8 2/1/99 Senate Do Pass Amended, Passed, AYES 21, NAYS 12. S.J. 287

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

519C0445

SENATE ENGROSSED NO. **SB99** - 2/11/99

Introduced by: Senator Symens and Representatives Hanson, Crisp, and Jaspers

1 FOR AN ACT ENTITLED, An Act to provide special assessment authority to ambulance
2 districts.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 34-11A-16 be amended to read as follows:

5 34-11A-16. The board of directors ~~shall have~~ has the following general powers:

- 6 (1) To determine upon a general ambulance service program for the district;
- 7 (2) To manage and conduct the business affairs of the district;
- 8 (3) To make and execute contracts in the name of and on behalf of the district;
- 9 (4) To purchase or lease such ambulance equipment, supplies, and other real or personal
10 property as ~~shall~~ may be necessary ~~and proper~~ to carry out the ambulance service
11 program of the district;
- 12 (5) To incur indebtedness on behalf of the district within the limits prescribed by
13 § 34-11A-24, and to authorize the issuance of evidences of ~~such~~ the indebtedness
14 permitted under this subdivision, and to pledge any real or personal property owned
15 or acquired by the district as security ~~for the same~~;
- 16 (6) To organize, establish, equip, maintain, and supervise an ambulance service to serve
17 the district;

1 (7) Generally to perform all acts necessary to fully carry out the purposes of this chapter;
2 and

3 ~~(8)~~ To levy a tax and a special assessment as provided by this chapter.

4 Section 2. That § 34-11A-18 be amended to read as follows:

5 34-11A-18. The board of directors may:

6 ~~(1)~~ ~~Make~~ make an annual estimate of the probable expense for carrying out the
7 ambulance service program for the district;

8 ~~(2)~~ ~~Annually~~ The board of directors shall by resolution certify ~~such~~ the estimate to the
9 proper county auditor in the manner provided by § 34-11A-19. The resolution shall
10 state if the estimate shall be paid by a general tax levy against all taxable real property
11 located within the district, by a special assessment against the real property within the
12 district that is specifically benefited by the project, or by both a general tax levy and
13 a special assessment with a portion to be paid by each.

14 Section 3. That § 34-11A-20 be amended to read as follows:

15 34-11A-20. No tax in excess of sixty cents per thousand dollars of taxable valuation upon
16 the property within an ambulance district may be levied for such district pursuant to the
17 provisions of this chapter. No limitation applies to a special assessment, except that a special
18 assessment may not be used to pay any obligation beyond the current business year.

19 In no case may the amount of tax levy exceed the amount of funds required to defray the
20 expenses of the district for a period of one year as embraced in the annual estimate of expenses
21 including the amount of principal and interest upon the indebtedness of the district for the
22 ensuing year.

23 However, any district organized pursuant to this chapter is not subject to any general county
24 levy for ambulance service.

25 Section 4. That § 34-11A-21 be amended to read as follows:

1 34-11A-21. The tax and the special assessment shall be collected as other taxes and special
2 assessments are collected in the county.

3 Section 5. That § 34-11A-22 be amended to read as follows:

4 34-11A-22. The tax and the special assessment shall be deposited with the secretary-treasurer
5 of the ambulance district, who shall have a surety bond in the amount of at least five thousand
6 dollars.

1 **BILL HISTORY**

2 1/22/99 First read in Senate and referred to Local Government. S.J. 160

3 1/27/99 Scheduled for Committee hearing on this date.

4 2/1/99 Scheduled for Committee hearing on this date.

5 2/3/99 Scheduled for Committee hearing on this date.

6 2/3/99 Local Government Do Pass, Passed, AYES 5, NAYS 1. S.J. 315

7 2/4/99 Senate Deferred to another day. S.J. 338

8 2/5/99 Senate Do Pass, Failed, AYES 19, NAYS 12. S.J. 357

9 2/5/99 Intent to reconsider. S.J. 357

10 2/10/99 Senate Reconsidered, AYES 28, NAYS 6. S.J. 418

11 2/10/99 Motion to Amend, Passed. S.J. 419

12 2/10/99 Senate Do Pass Amended, Passed, AYES 28, NAYS 7. S.J. 419

13 2/10/99 Senate Title Amended Passed. S.J. 420

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

375C0098

SENATE ENGROSSED NO. **SB103** - 2/9/99

Introduced by: Senators Brosz, Brown (Arnold), Frederick, Reedy, and Shoener and
Representatives Konold, Duniphan, Fryslie, Haley, Munson (Donald), and
Solum

1 FOR AN ACT ENTITLED, An Act to revise the election procedure for forming a municipality.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 9-3-3 be amended to read as follows:

4 9-3-3. ~~Such persons~~ Any person making application for the organization of a municipality

5 shall cause an accurate census to be taken of the landowners and the resident population of the

6 ~~territory included in said map as of a day~~ proposed municipality not more than thirty days

7 previous to the time of presenting ~~such~~ the application to the board of county commissioners ~~as~~

8 ~~hereinafter provided. Such.~~ The census shall exhibit the name of ~~every head of a family~~ each

9 landowner and person residing ~~within such territory on such day~~ in the proposed municipality and

10 the number of persons belonging to ~~every such~~ each family ~~and shall also state the names of all~~

11 ~~persons residing within such territory at such time. It~~ as of a certain date. The census shall be

12 verified by the affidavit of the person taking the ~~same~~ census.

13 Section 2. That § 9-3-5 be amended to read as follows:

14 9-3-5. The application for incorporation shall be by a petition ~~subscribed and~~ verified by the

15 ~~applicants and subscribed~~ circulator and signed by not less than ~~fifteen~~ twenty-five percent of the

16 ~~registered voters residing within such territory, based upon the total number of registered voters~~

1 ~~at the last preceding general election. It qualified voters who are either registered voters in the~~
2 ~~proposed municipality or landowners in the proposed municipality who are also registered voters~~
3 ~~of this state. The application shall set forth identify the type of government to be formed, the~~
4 ~~number of trustees, commissioners, or wards in the municipality, the boundaries and area thereof~~
5 ~~according to the survey, and the resident population thereof according to the census taken. It~~
6 ~~The application~~ shall be presented at the time indicated in the notice of ~~such~~ the application or
7 as soon thereafter as the board of county commissioners can receive and consider the ~~same~~
8 ~~application.~~

9 Section 3. That § 9-3-6 be amended to read as follows:

10 9-3-6. If the board, after proof by affidavit or oral examination of witnesses, ~~shall be is~~
11 satisfied that the requirements of this chapter have been fully complied with, ~~it~~ the board shall
12 make an order declaring that ~~such territory~~ the proposed municipality shall, with the assent of
13 the qualified voters who are either registered voters in the proposed municipality or landowners
14 in the proposed municipality who are also registered voters thereof as hereinafter provided of
15 this state, be an incorporated municipality by the name specified in the application. ~~Such~~ The
16 name shall be different from that of any other municipality in this state. ~~It~~ The board shall also
17 include in ~~such~~ the order a notice for a meeting ~~of the voters resident in the proposed~~
18 ~~municipality, at a convenient place therein, on some day within one month therefrom, to~~
19 ~~determine whether such territory shall become an incorporated municipality and election to be~~
20 held as provided in §§ 6-16-3 to 6-16-5, inclusive.

21 Section 4. That § 9-3-17 be amended to read as follows:

22 9-3-17. ~~There shall be~~ Each official elected at the first election ~~three trustees at large, who~~
23 shall hold ~~their offices~~ office until the first Monday in May next following or until ~~their~~
24 ~~successors are elected and qualified. The trustees shall appoint a finance officer and a treasurer~~
25 a successor is elected and qualified.

1 Section 5. That § 9-3-7 be repealed.

2 ~~—9-3-7. The board shall give ten days' notice of such meeting by publication and by posting~~
3 ~~a copy of such notice at ten of the most public places in the proposed municipality.~~

4 Section 6. That § 9-3-8 be repealed.

5 ~~—9-3-8. At such meeting the polls shall be kept open from nine o'clock in the forenoon until~~
6 ~~four o'clock in the afternoon.~~

7 Section 7. That § 9-3-9 be repealed.

8 ~~—9-3-9. The voters at such meeting shall first elect three inspectors, who shall elect one of~~
9 ~~their number as clerk and shall without delay open the polls to receive the ballots of the voters.~~

1 **BILL HISTORY**

2 1/22/99 First read in Senate and referred to Local Government. S.J. 161

3 1/27/99 Scheduled for Committee hearing on this date.

4 2/1/99 Scheduled for Committee hearing on this date.

5 2/1/99 Local Government Do Pass, Passed, AYES 4, NAYS 1. S.J. 271

6 2/2/99 Senate Deferred to another day. S.J. 304

7 2/4/99 Senate Deferred to another day. S.J. 337

8 2/8/99 Motion to Amend, Passed. S.J. 370

9 2/8/99 Senate Do Pass Amended, Passed, AYES 26, NAYS 8. S.J. 370

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

851C0518

SENATE JUDICIARY COMMITTEE ENGROSSED NO. **SB106** - 1/30/99

Introduced by: Senators Hainje, Albers, Ham, Kleven, and Vitter and Representatives Michels, Duniphan, Fitzgerald, Koetzle, and McNenny

1 FOR AN ACT ENTITLED, An Act to increase the penalty for failure to stop for an emergency
2 vehicle.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 32-31-6.1 be amended to read as follows:

5 32-31-6.1. Upon approaching from any direction any stopped authorized emergency vehicle
6 making use of visual signals meeting the requirements of this chapter, the driver of ~~every~~ any
7 other vehicle shall come to a complete stop before ~~he~~ the driver reaches the stopped emergency
8 vehicle ~~and~~. The driver may, unless otherwise directed, proceed with caution only after ~~he~~ the
9 driver has ascertained that it is safe to do so. A violation of this section is a Class 2 misdemeanor.
10 However, a violation of this section is a Class 1 misdemeanor if the emergency vehicle referred
11 to in this section is an ambulance, fire department vehicle, or a rescue vehicle which is at the
12 scene of an accident or a fire and the failure to stop results in an injury to an emergency worker
13 or damage to any such authorized emergency vehicle.

1 **BILL HISTORY**

2 1/22/99 First read in Senate and referred to Judiciary. S.J. 161

3 1/27/99 Scheduled for Committee hearing on this date.

4 1/29/99 Scheduled for Committee hearing on this date.

5 1/29/99 Judiciary Do Pass Amended, Passed, AYES 7, NAYS 0. S.J. 251

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

543C0628

HOUSE JUDICIARY COMMITTEE ENGROSSED NO. **SB126** - 2/16/99

Introduced by: Senators Lawler, Dennert, Hainje, and Munson (David) and Representatives Cutler, Diedrich (Elmer), Fischer-Clemens, Hennies, Sutton (Duane), and Waltman

1 FOR AN ACT ENTITLED, An Act to provide for the confidentiality of certain ambulance
2 patient information.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 34-11 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any patient information identifying the patient's name, address, diagnosis, or treatment
7 received by an ambulance service under the authority of this chapter is not a public record and
8 is confidential, except for official purposes, and may not be published or disclosed without
9 authorization from the patient or the patient's designee.

1 **BILL HISTORY**

2 1/25/99 First read in Senate and referred to Judiciary. S.J. 178

3 1/27/99 Scheduled for Committee hearing on this date.

4 1/27/99 Judiciary Do Pass Amended, Passed, AYES 5, NAYS 2. S.J. 209

5 1/29/99 Senate Do Pass Amended, Passed, AYES 28, NAYS 5. S.J. 263

6 2/1/99 First read in House and referred to committee assignment waived. H.J. 300

7 2/2/99 Referred to Judiciary. H.J. 332

8 2/12/99 Scheduled for Committee hearing on this date.

9 2/12/99 Judiciary Do Pass Amended, Passed, AYES 9, NAYS 2. H.J. 504

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

475C0481

HOUSE JUDICIARY COMMITTEE ENGROSSED NO. **SB130** - 2/18/99

Introduced by: Senators Whiting, Albers, Brosz, Drake, and Staggers and Representatives
Hennies, Duniphan, Fitzgerald, McCoy, and Wilson

1 FOR AN ACT ENTITLED, An Act to revise and expand certain provisions relating to third
2 offense assault.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 22-18-1 be amended to read as follows:

5 22-18-1. Any person who:

6 (1) Attempts to cause bodily injury to another, other than a law enforcement officer
7 engaged in the performance of ~~his~~ official duties, and has the actual ability to cause
8 the injury;

9 (2) Recklessly causes bodily injury to another;

10 (3) Negligently causes bodily injury to another with a dangerous weapon;

11 (4) Attempts by physical menace to put another in fear of imminent serious bodily harm,
12 with or without the actual ability to seriously harm the other person; or

13 (5) Intentionally causes bodily injury to another which does not result in serious bodily
14 injury;

15 is guilty of simple assault.

16 Simple assault is a Class 1 misdemeanor. However, if the defendant has been convicted of,

1 or entered a plea of guilty to, two or more violations of this section § 22-18-1, 22-18-1.1, 22-18-
2 26, or 22-18-29 within five years of committing the current offense, the defendant is guilty of
3 a Class 6 felony for any third or subsequent offense.

4 Section 2. That chapter 22-18 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any conviction for, or plea of guilty to, an offense in another state which, if committed in this
7 state, would constitute a violation of § 22-18-1, 22-18-1.1, 22-18-26, or 22-18-29, and which
8 occurs within five years prior to the date of the violation being charged, shall be used to
9 determine if the violation to be charged is a third or subsequent offense pursuant to section 1 of
10 this Act.

1 **BILL HISTORY**

2 1/25/99 First read in Senate and referred to Judiciary. S.J. 179

3 2/5/99 Scheduled for Committee hearing on this date.

4 2/5/99 Judiciary Do Pass, Passed, AYES 7, NAYS 0. S.J. 364

5 2/9/99 Senate Do Pass, Passed, AYES 34, NAYS 0. S.J. 404

6 2/10/99 First read in House and referred to Judiciary. H.J. 473

7 2/17/99 Scheduled for Committee hearing on this date.

8 2/17/99 Judiciary Do Pass Amended, Passed, AYES 11, NAYS 1. H.J. 566

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

715C0444

SENATE ENGROSSED NO. **SB134** - 2/5/99

Introduced by: Senators Brown (Arnold), Dunn (Jim), Flowers, Lawler, Madden, Rounds, and Whiting and Representatives Fischer-Clemens, Brooks, Brown (Richard), McCoy, Monroe, and Peterson

1 FOR AN ACT ENTITLED, An Act to require certain health plans to cover certain dental care
2 services.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 58-17-1 be amended to read as follows:

5 58-17-1. No policy of health insurance ~~shall~~ may be delivered or issued for delivery to any
6 person in this state unless it otherwise complies with this title, ~~and complies~~ with §§ 58-17-1.1
7 to 58-17-11, inclusive, and with this Act.

8 Section 2. That chapter 58-17 be amended by adding thereto a NEW SECTION to read as
9 follows:

10 Any health benefit plan as defined by § 58-17-63 shall cover anesthesia and hospital charges
11 for dental care provided to a covered person who:

- 12 (1) Is a child under age five; or
13 (2) Is severely disabled or otherwise suffers from a developmental disability as determined
14 by a licensed physician which places such person at serious risk.

15 Such coverage applies regardless of whether the services are provided in a hospital or a
16 dental office. A health carrier may require prior authorization of hospitalization for dental care

1 procedures in the same manner that prior authorization is required for hospitalization for other
2 covered diseases or conditions.

3 Section 3. That chapter 58-18 be amended by adding thereto a NEW SECTION to read as
4 follows:

5 Any health benefit plan as defined by § 58-18-42 shall cover anesthesia and hospital charges
6 for dental care provided to a covered person who:

- 7 (1) Is a child under age five; or
- 8 (2) Is severely disabled or otherwise suffers from a developmental disability as determined
9 by a licensed physician which places such person at serious risk.

10 Such coverage applies regardless of whether the services are provided in a hospital or a
11 dental office. A health carrier may require prior authorization of hospitalization for dental care
12 procedures in the same manner that prior authorization is required for hospitalization for other
13 covered diseases or conditions.

1 **BILL HISTORY**

2 1/26/99 First read in Senate and referred to Health and Human Services. S.J. 193

3 2/3/99 Scheduled for Committee hearing on this date.

4 2/3/99 Health and Human Services Do Pass, Passed, AYES 5, NAYS 2. S.J. 316

5 2/4/99 Motion to Amend, Passed. S.J. 339

6 2/4/99 Senate Do Pass Amended, Passed, AYES 29, NAYS 4. S.J. 339

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

581C0505

HOUSE TRANSPORTATION COMMITTEE

ENGROSSED NO. **SB172** - 2/18/99

Introduced by: Senators Vitter, Drake, Flowers, Hutmacher, and Rounds and Representatives Wetz, Cutler, Diedrich (Larry), Sutton (Duane), and Volesky

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the disclosure of
2 damage on motor vehicles.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 32-3-51.7 be amended to read as follows:

5 32-3-51.7. Each certificate of title issued by the department shall contain the following
6 phrase: South Dakota state law requires the disclosure of damage on motor vehicles. This
7 information is available upon written request from the Department of Revenue, Division of
8 Motor Vehicles. Each certificate of title shall also contain on its front a statement as to whether
9 previous damage disclosure statements indicate the motor vehicle had been damaged at one time
10 in excess of ~~two~~ three thousand dollars as provided by § 32-3-51.8.

11 Section 2. That § 32-3-51.8 be amended to read as follows:

12 32-3-51.8. Upon the sale, transfer, or trade-in of a motor vehicle, or if licensing a motor
13 vehicle in South Dakota which is titled in another state or jurisdiction, the seller, transferor,
14 trader, or person wishing to license in South Dakota the motor vehicle which is titled in another
15 state or jurisdiction shall submit an accurately completed damage disclosure statement when
16 applying for a certificate of title pursuant to § 32-3-18. The completed damage disclosure

1 statement may be on the back of the certificate of title or on a separate document that has been
2 approved for use by the department. Except as otherwise provided by this section, no certificate
3 of title may be issued by the department unless the damage disclosure statement accompanies the
4 application. It is a Class 1 misdemeanor to intentionally falsify any information on the damage
5 disclosure statement. No person or dealer is liable to a subsequent owner of a vehicle because
6 a prior owner of the vehicle failed to disclose that the vehicle had previously been damaged and
7 repaired. This section does not apply to motor vehicles more than nine model years old or with
8 a gross vehicle weight rating of more than sixteen thousand pounds and does not apply if a
9 rebuilt title or junking certificate is sought.

10 This section does apply to all other motor vehicles, but only damage in excess of ~~two~~ three
11 thousand dollars shall be disclosed in the statement. If the motor vehicle has incurred damages
12 more than once, only those damages which occurred at one time would be considered in
13 determining whether the damages exceeded ~~two~~ three thousand dollars.

14 Section 3. That § 32-3-51.14 be amended to read as follows:

15 32-3-51.14. The department shall prescribe, pursuant to chapter 1-26, the format for the
16 damage disclosure statement provided by § 32-3-51.8. An area for a damage disclosure
17 statement shall appear on the back of each certificate of title issued by the department. The
18 department may also approve separate documents on which a damage disclosure statement may
19 be submitted. The damage disclosure statement form shall indicate whether the motor vehicle has
20 been damaged such that it cost more than ~~two~~ three thousand dollars to repair to its predamaged
21 condition and any other damage information the department deems appropriate. If a separate
22 document from the certificate of title contains the damage disclosure statement, the document
23 shall also require the following information: year, make, model, and vehicle identification number
24 of the motor vehicle.

25 Section 4. That § 32-3-51.15 be amended to read as follows:

1 32-3-51.15. The dollar amount of damage to a motor vehicle required to be disclosed
2 pursuant to § 32-3-51.8 shall include the costs necessary to return the damaged motor vehicle
3 to its predamaged condition. Such costs include parts, labor, paint, and frame work done on the
4 damaged motor vehicle. If the retail value of labor has not been determined by a purchase in the
5 ordinary course of business (for example, the labor is performed by the owner of the vehicle),
6 the retail value of the labor is presumed to be the product of the repair time, as provided in a
7 generally accepted autobody repair flat rate manual, multiplied by thirty-five dollars.

8 Section 5. That chapter 32-3 be amended by adding thereto a NEW SECTION to read as
9 follows:

10 Any vehicle that is required to be titled pursuant to this chapter and is sold or offered for sale
11 by a vehicle dealer or a used vehicle dealer as defined in § 32-6B-1 shall display a sticker, decal,
12 or notice that discloses damage to the vehicle in accordance with the provisions of §§ 32-3-51.7,
13 32-3-51.8, 32-3-51.14, and 32-3-51.15, as determined by the department in rules promulgated
14 pursuant to chapter 1-26. The rules shall also prescribe the format and construction of the
15 sticker, decal, or notice.

1 **BILL HISTORY**

2 1/27/99 First read in Senate and referred to Transportation. S.J. 215

3 2/2/99 Scheduled for Committee hearing on this date.

4 2/4/99 Scheduled for Committee hearing on this date.

5 2/4/99 Transportation Do Pass Amended, Passed, AYES 5, NAYS 2. S.J. 333

6 2/8/99 Senate Deferred to another day. S.J. 381

7 2/10/99 Motion to Amend, Passed. S.J. 428

8 2/10/99 Senate Do Pass Amended, Passed, AYES 19, NAYS 16. S.J. 429

9 2/11/99 First read in House and referred to Transportation. H.J. 490

10 2/17/99 Scheduled for Committee hearing on this date.

11 2/17/99 Transportation Do Pass Amended, Failed, AYES 4, NAYS 9.

12 2/17/99 Transportation Do Pass Amended, Passed, AYES 11, NAYS 2. H.J. 566

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

543C0740

SENATE JUDICIARY COMMITTEE
ENGROSSED NO. **SB176** - 2/9/99

Introduced by: Senator Whiting and Representative Jaspers

1 FOR AN ACT ENTITLED, An Act to restrict the possession of firearms on certain off-road
2 vehicles.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 32-20-6.6 be amended to read as follows:

5 32-20-6.6. No person, other than a law enforcement officer or conservation officer, or any
6 person on the person's own land or land leased by the person which is not located within a
7 firearms big game hunting unit during an open season, may operate or ride on any motorcycle
8 or off-road vehicle with any firearm in the person's possession unless the firearm is completely
9 unloaded and within a carrying case which encloses the entire firearm. However, this section
10 does not apply to any person who is carrying a pistol and possesses a permit to carry a concealed
11 pistol issued pursuant to chapter 23-7. This section shall be enforced by all law enforcement
12 officers including conservation officers, notwithstanding the provisions of § 41-15-10.1. A
13 violation of this section is a Class 2 misdemeanor.

1 **BILL HISTORY**

2 1/27/99 First read in Senate and referred to Judiciary. S.J. 216

3 2/3/99 Scheduled for Committee hearing on this date.

4 2/8/99 Scheduled for Committee hearing on this date.

5 2/8/99 Judiciary Do Pass Amended, Passed, AYES 6, NAYS 0. S.J. 367

6 2/8/99 Judiciary Place on Consent Calendar.

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

287C0046

SENATE AGRICULTURE AND NATURAL RESOURCES COMMITTEE ENGROSSED NO.

SCR1 - 1/20/99

Introduced by: Senators Drake, Benson, Brown (Arnold), Lange, Reedy, Valandra, and Vitter
and Representatives Wetz, Jaspers, Lockner, and Weber at the request of the
Interim Agriculture Committee

1 A CONCURRENT RESOLUTION, Requesting the United States Congress to exempt
2 agricultural commodities and products from economic sanctions.

3 WHEREAS, agriculture is the number one industry in South Dakota and is the bedrock of
4 South Dakota's economy; and

5 WHEREAS, many South Dakotans rely on the agricultural industry to make a living; and

6 WHEREAS, the agricultural industry in South Dakota and in the United States is
7 experiencing financial difficulties; and

8 WHEREAS, of the approximately five billion people in the world, approximately three billion
9 people in seventy countries are prevented from doing business with the United States because
10 of some form of economic sanction:

11 NOW, THEREFORE, BE IT RESOLVED, by the Senate of the Seventy-fourth Legislature
12 of the State of South Dakota, the House of Representatives concurring therein, that the United
13 States Congress is hereby requested to exempt all agricultural commodities and products when
14 imposing any economic sanctions on foreign countries.

1 **BILL HISTORY**

2 1/19/99 Scheduled for Committee hearing on this date.

3 1/19/99 Agriculture and Natural Resources Adopt Resolution as Amended, AYES 9, NAYS 0.

4 S.J. 115