



# 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** - 2/19/99

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. H.J. 611

# State of South Dakota

SEVENTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 1999

400C0210

## SENATE AGRICULTURE AND NATURAL RESOURCES COMMITTEE ENGROSSED NO.

### HB1039 - 2/16/99

Introduced by: The Committee on Agriculture and Natural Resources at the request of the  
Department of Game, Fish, and Parks

1 FOR AN ACT ENTITLED, An Act to repeal the licensing of resident and nonresident  
2 professional dog trainers, to restrict the training of dogs on wild game birds, and to repeal  
3 certain big game licensing requirements.

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

5 Section 1. That § 41-6-78 be amended to read as follows:

6 41-6-78. ~~The Department of Game, Fish and Parks may issue any resident, as defined by this~~  
7 ~~title, a resident professional dog training license. The license permits the licensee to train or~~  
8 ~~engage in the business of training hunting or field trial dogs when and where wild game is found.~~  
9 ~~For purposes of this section, a professional dog trainer is any person who trains or sells any~~  
10 ~~breed of hunting dog for remuneration. The license shall be issued annually. No licensee may be~~  
11 ~~allowed to No person may train dogs on wild game birds from April fifteenth to July thirty-first,~~  
12 ~~inclusive. The licensee shall comply with rules adopted pursuant to § 41-2-18 by the Game, Fish~~  
13 ~~and Parks commission to protect and perpetuate the wild game resources of the state. Such rules~~  
14 ~~may limit the number of licenses issued and further restrict professional dog training on public~~  
15 ~~lands. Failure to comply with such rules or the provisions of this section shall be cause for~~

1 ~~revocation of license and nonissuance of future licenses. No person may train dogs on wild game~~  
2 ~~birds from April fifteenth to July thirty-first, inclusive. The commission shall promulgate rules~~  
3 ~~pursuant to chapter 1-26 to impose restrictions on the methods, dates, and number of dogs that~~  
4 ~~may be trained on wild game birds on public lands and public rights-of-way. Any person who~~  
5 violates this section is guilty of a Class 2 misdemeanor.

6 Section 2. That § 41-6-79 be repealed.

7 ~~— 41-6-79. The department of game, fish and parks may issue any nonresident a nonresident~~  
8 ~~professional dog training license. The nonresident professional dog training license entitles the~~  
9 ~~licensee to all the privileges and is subject to all the restrictions and penalty provisions as the~~  
10 ~~resident professional dog training license provided by § 41-6-78.~~

11 Section 3. That § 41-6-10 be amended to read as follows:

12 41-6-10. Licenses, permits, and stamps issued under this title are classified as follows:

- 13 (1) Disabled hunter permit;
- 14 (2) Export bait dealer license;
- 15 (2A) Fall three-day temporary nonresident waterfowl license;
- 16 (3) Fur dealer's license;
- 17 (4) Hoop net, trap or setline license;
- 18 (5) License for breeding and domesticating animals and birds;
- 19 (6) License to take fur-bearing animals;
- 20 (7) Nonresident big game license;
- 21 (8) Nonresident fishing license;
- 22 (9) Nonresident predator/varmint license;
- 23 (10) ~~Nonresident professional dog training license;~~
- 24 (11) Nonresident retail bait dealer license;
- 25 (12) Nonresident shooting preserve license;

- 1 (13) Nonresident small game license;
- 2 (14) Nonresident and resident migratory bird certification permit;
- 3 (15) Nonresident wholesale bait dealer license;
- 4 (16) Nonresident wild turkey license;
- 5 (17) Nursing facility group fishing license;
- 6 (18) Park user's license;
- 7 (19) Permit for transportation of big game animal;
- 8 (20) Private fish hatchery license;
- 9 (21) Resident big game license;
- 10 (22) Resident elk license;
- 11 (23) Resident fishing license and resident senior fishing license;
- 12 (24) ~~Resident professional dog training license;~~
- 13 (25) Resident retail bait dealer license;
- 14 (26) Resident small game license and resident youth small game license;
- 15 (27) Resident predator/varmint license;
- 16 (28) Resident wholesale bait dealer license;
- 17 (29) Resident wild turkey license;
- 18 (30) Scientific collector's license;
- 19 (31) Special nonresident waterfowl license;
- 20 (32) ~~Special Pine Ridge Indian reservation resident and nonresident big game license;~~
- 21 (33) Taxidermist's license;
- 22 (33A) Spring five-day snow goose temporary nonresident waterfowl license;
- 23 (34) Temporary fishing and hunting licenses.

24 The rights and privileges of such licensees are set forth in §§ 41-6-12 to 41-6-45.1, inclusive,  
25 and in § 41-17-13. The Game, Fish and Parks Commission shall promulgate rules pursuant to

1 chapter 1-26 to set the fees, eligibility, and duration for such licenses.

1 **BILL HISTORY**

2 1/12/99 First read in House and referred to Agriculture and Natural Resources. H.J. 39

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

4 2/4/99 Agriculture and Natural Resources Do Pass Amended, Passed, AYES 12, NAYS 0.

5 H.J. 364

6 2/8/99 House of Representatives Deferred to another day. H.J. 419

7 2/9/99 Motion to Amend, Passed. H.J. 442

8 2/9/99 House of Representatives Do Pass Amended, Passed, AYES 52, NAYS 13. H.J. 442

9 2/10/99 First read in Senate and referred to Agriculture and Natural Resources. S.J. 422

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

11 2/16/99 Agriculture and Natural Resources Do Pass Amended, Passed, AYES 9, NAYS 0.

12 S.J. 493

# State of South Dakota

SEVENTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 1999

400C0406

## SENATE ENGROSSED NO. **HB1053** - 2/18/99

Introduced by: The Committee on Transportation at the request of the Department of  
Transportation

1 FOR AN ACT ENTITLED, An Act to revise the open container law.

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

3 Section 1. That § 35-1-9.1 be amended to read as follows:

4 35-1-9.1. It is a Class 2 misdemeanor for any person ~~to have a package or any receptacle~~  
5 ~~containing an alcoholic beverage in his possession in a motor vehicle unless the seal of the~~  
6 ~~original package remains unbroken or the alcoholic beverage is so removed that no occupant of~~  
7 ~~the motor vehicle shall have access to it while the vehicle is in motion~~ occupying a motor vehicle  
8 located upon a public highway or the right-of-way of a public highway to consume any alcoholic  
9 beverage or have a package or any receptacle containing an alcoholic beverage in that person's  
10 possession unless the seal of the original package remains unbroken or the alcoholic beverage  
11 is so removed from the passenger area of the motor vehicle that no occupant of the motor  
12 vehicle has access to it.

13 Section 2. Terms used in § 35-1-9.1 mean:

14 (1) "Alcoholic beverage," any distilled spirits, wine, and malt beverage as defined in this  
15 section;

16 (2) "Distilled spirits," ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whiskey, rum,

1 brandy, gin, and other distilled spirits, including all dilutions and mixtures thereof, for  
2 nonindustrial use containing any amount of alcohol;

3 (3) "Malt beverage," beer, ale, porter, stout, and other similar beverages of any name or  
4 description made by the alcoholic fermentation of an infusion or decoction, or  
5 combination of both, in potable brewing water, of malted barley with hops, or their  
6 parts, or their products, or from any substitute therefor, and with or without other  
7 malted cereals, and with or without the addition of unmalted or prepared cereals,  
8 other carbohydrates or products prepared therefrom, and with or without the addition  
9 of carbon dioxide, and with or without other wholesome products suitable for human  
10 consumption containing not less than one-half of one percent of alcohol by volume;  
11 and

12 (4) "Wine," any liquid either commonly used, or reasonably adapted to use, for beverage  
13 purposes, and obtained by the fermentation of the natural sugar content of fruits or  
14 other agricultural products containing sugar and containing not less than one-half of  
15 one percent of alcohol by weight but not more than twenty-four percent of alcohol by  
16 volume.

17 Section 3. It is not a violation of section 1 of this Act if an alcoholic beverage is located in  
18 a locked glove compartment of the motor vehicle.

19 Section 4. It is not a violation of section 1 of this Act if an open alcoholic beverage is behind  
20 the last upright seat of a motor vehicle that is not equipped with a trunk or in an area not  
21 normally occupied by the driver or passengers.

22 Section 5. It is not a violation of section 1 of this Act if a carrier defined in subdivision 35-1-  
23 1(3) is licensed pursuant to subdivision 35-4-2(9).

24 Section 6. It is not a violation of section 1 of this Act if any passenger possesses or consumes  
25 an alcoholic beverage in the living quarters of a motor home, house coach, or house trailer while

- 1 the vehicle is parked in a public or private facility specifically designed or designated to allow the
- 2 use of the vehicle's living quarters and the vehicle is not in motion.

1 **BILL HISTORY**

2 1/12/99 First read in House and referred to Transportation. H.J. 42

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

4 1/16/99 Transportation Deferred to another day, AYES 8, NAYS 5.

5 1/25/99 Scheduled for Committee hearing on this date.

6 1/25/99 Transportation Do Pass Amended, Passed, AYES 13, NAYS 0. H.J. 169

7 1/27/99 Motion to Amend, Passed. H.J. 219

8 1/27/99 House of Representatives Do Pass Amended, Passed, AYES 57, NAYS 12. H.J. 220

9 1/28/99 First read in Senate and referred to Transportation. S.J. 243

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

11 2/9/99 Transportation Do Pass Amended, Passed, AYES 5, NAYS 2. S.J. 398

12 2/11/99 Senate Deferred to another day. S.J. 458

13 2/16/99 Senate Deferred to another day. S.J. 507

14 2/17/99 Senate Deferred to another day. S.J. 531

15 2/18/99 Motion to Amend, Passed. S.J. 567

16 2/18/99 Motion to Amend, Passed. S.J. 567

17 2/18/99 Senate Do Pass Amended, Passed, AYES 33, NAYS 1. S.J. 567

# State of South Dakota

SEVENTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 1999

930C0127

## SENATE ENGROSSED NO. **HB1070** - 2/18/99

Introduced by: Representatives Brooks, Crisp, Hunt, and Kooistra and Senators Madden, Albers, and Munson (David)

1 FOR AN ACT ENTITLED, An Act to authorize county road districts to establish certain vehicle  
2 speed and weight restrictions and to revise certain county road district formation  
3 requirements.

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

5 Section 1. That § 31-12A-1 be amended to read as follows:

6 31-12A-1. ~~A populated~~ Any area outside the boundary of a municipality, which is situated  
7 so that the construction or maintenance of roads becomes desirable, may be incorporated by its  
8 landowners as a road district pursuant to this chapter.

9 Section 2. That § 31-12A-21 be amended to read as follows:

10 31-12A-21. The board of trustees may:

- 11 (1) Appoint a treasurer and a clerk, an engineer, attorney, and other employees for the  
12 road district and fix their compensation. These officers shall hold their respective  
13 offices at the pleasure of the board, and be bonded for the faithful performance of  
14 their duties as may be required by the board;
- 15 (2) Sue and be sued and contract in the name of the district;
- 16 (3) Adopt a corporate seal;

1 (4) Construct roadways and maintain them;

2 (5) Borrow money, levy taxes, and special assessments, and issue bonds pursuant to  
3 § 31-12A-23;

4 (6) Establish speed and weight limits and other restrictions on roads under the road  
5 district's jurisdiction in accordance with the provisions of sections 5 to 9, inclusive,  
6 of this Act.

7 Section 3. That chapter 31-12A be amended by adding thereto a NEW SECTION to read  
8 as follows:

9 Any road constructed or maintained pursuant to this chapter is a public highway, and any  
10 speed limits, vehicle weight limits, and any other vehicle or traffic regulations on such roads may  
11 be enforced by any law enforcement officer.

12 Section 4. That subdivision (14) of § 32-14-1 be amended to read as follows:

13 (14) "Local authorities," every county, municipal, township, road district, and other local  
14 board or body having authority to adopt local police regulations under the  
15 Constitution and laws of this state;

16 Section 5. That § 32-14-3 be amended to read as follows:

17 32-14-3. Local authorities, except as expressly authorized by ~~§§ 32-25-16 and 32-29-2~~ shall  
18 ~~have no power or authority to~~ chapter 32-25 and § 32-29-2, may not alter any speed limitations  
19 declared in chapter 32-25 or to enact or enforce any ordinance, charter provision, or bylaw  
20 duplicating the provisions of chapter 32-23 or to enact or enforce any rule or regulation contrary  
21 to the provisions of chapters 32-14 to 32-19, inclusive, or 32-22 and 32-24 to 32-34, inclusive,  
22 except as provided by §§ 32-14-4 and 32-14-5.

23 Section 6. That § 32-14-6 be amended to read as follows:

24 32-14-6. Local authorities, including road districts, may by ordinance or resolution prohibit  
25 the operation of vehicles upon any highway or impose restrictions as to the weight of vehicles

1 for a total period not to exceed ninety days in any one calendar year, ~~when.~~ Such prohibitions  
2 or restrictions apply only to vehicles to be operated upon any highway under the jurisdiction of  
3 and for the maintenance of which such local authorities are responsible ~~whenever any said~~ and  
4 only if the highway by reason of deterioration, rain, snow, or other climatic conditions will be  
5 seriously damaged or destroyed unless the use of vehicles ~~thereon~~ on the highway is prohibited  
6 or the permissible weights ~~thereof~~ of the vehicles are reduced. ~~Such local authorities~~ Any local  
7 authority enacting any such ordinance or resolution shall erect and maintain or cause to be  
8 erected and maintained signs designating the provisions of the ordinance or resolution at each  
9 end of that portion of any highway affected ~~thereby and the~~ by the ordinance or resolution. The  
10 ordinance or resolution ~~shall not be effective until or is not valid~~ unless such signs are erected  
11 and maintained.

12 Section 7. That § 32-14-7 be amended to read as follows:

13 32-14-7. Local authorities, including road districts, may ~~also~~ by ordinance or resolution  
14 prohibit the operation of trucks or other commercial vehicles or impose limitations as to the  
15 weights ~~thereof~~ of such vehicles on designated highways, ~~which.~~ The prohibitions and limitations  
16 shall be designated by appropriate signs placed on such highways.

17 Section 8. That § 32-22-47 be amended to read as follows:

18 32-22-47. The board of county commissioners of any county, the board of supervisors of any  
19 township, the board of trustees of any road district, or the transportation commission of the  
20 South Dakota Department of Transportation, their officers or agents, shall erect and maintain  
21 at a point on the right-of-way and within one hundred feet of both entrances to any bridge and  
22 may, where they deem necessary, erect and maintain at the nearest road intersection in each  
23 direction from any bridge, upon any public highway which it is the duty of the boards to maintain  
24 and repair, a conspicuous sign specifying in large numerals, the maximum weight of any vehicle,  
25 laden or unladen, which may enter upon or cross over such bridge. No bridge signing is

1 necessary for bridges which can accommodate motor vehicles operating under the legal weight  
2 maximums provided in § 32-22-16.

3 Section 9. That § 32-25-9.1 be amended to read as follows:

4 32-25-9.1. Any board of county commissioners may determine and establish speed zones  
5 upon all or any part of the highways under its jurisdiction and upon streets and highways on the  
6 request of and after any other local authority, including any road district, having charge of the  
7 maintenance ~~thereof~~ of the highway has declared its intention to post speed zones. Such speed  
8 zones shall be conspicuously posted at the beginning and ending of the zones.

9 Section 10. That § 6-16-2 be amended to read as follows:

10 6-16-2. The application for organization shall be a petition verified by one or more  
11 circulators by affidavit stating that each affiant personally witnessed the signatures on the petition  
12 and believe the signatures to be genuine. The petition shall be signed by at least twenty-five  
13 percent of the landowners within the proposed district who are also registered voters within the  
14 district. If the proposed district is in two or more counties, a petition shall be filed in each county  
15 and each petition shall be signed by at least twenty percent of the landowners within the  
16 proposed district who are also registered voters within the proposed district in that county. The  
17 petition shall be accompanied by a deposit covering the estimated costs as determined by the  
18 county auditor of the public notices and the conduct of the election for the formation of the  
19 district. If the district to be formed is a road district that contains no registered voters, the  
20 petition requirements are based solely on landowners.

21 Section 11. That § 6-16-6 be amended to read as follows:

22 6-16-6. A person who is a landowner in the proposed district and is registered to vote in the  
23 proposed district may vote in the elections provided for in § 6-16-5. However, the qualifications  
24 of a voter for irrigation district elections are provided in chapter 46A-4. Absentee voting is  
25 allowed pursuant to chapter 12-19 for the election on the question of formation of the special

1 district. If the district to be formed is a road district that contains no registered voters, voter  
2 eligibility is based solely on landowners.

3 Section 12. That § 31-12A-5 be amended to read as follows:

4 31-12A-5. The application for organization shall be as provided in ~~§ 6-16-6~~ § 6-16-2 and  
5 shall be filed with the county auditor and presented to the board of county commissioners for  
6 consideration at its next meeting.

7 Section 13. That chapter 31-12A be amended by adding thereto a NEW SECTION to read  
8 as follows:

9 No political subdivision of the state may relinquish or transfer jurisdiction over any public  
10 highway to a road district.

1 **BILL HISTORY**

2 1/16/99 First read in House and referred to Local Government. H.J. 73

3 1/21/99 Scheduled for Committee hearing on this date.

4 1/21/99 Local Government Deferred to another day.

5 1/28/99 Scheduled for Committee hearing on this date.

6 1/28/99 Local Government Do Pass Amended, Passed, AYES 11, NAYS 1. H.J. 235

7 2/1/99 House of Representatives Do Pass Amended, Passed, AYES 46, NAYS 20. H.J. 296

8 2/2/99 First read in Senate and referred to Local Government. S.J. 307

9 2/8/99 Scheduled for Committee hearing on this date.

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

11 2/10/99 Local Government Do Pass Amended, Passed, AYES 6, NAYS 1. S.J. 416

12 2/12/99 Senate Deferred to another day. S.J. 485

13 2/16/99 Motion to Amend, Passed. S.J. 508

14 2/16/99 Senate Deferred to another day. S.J. 508

15 2/17/99 Senate Deferred to another day. S.J. 531

16 2/18/99 Motion to Amend, Passed. S.J. 568

17 2/18/99 Senate Do Pass Amended, Passed, AYES 23, NAYS 9. S.J. 569

# State of South Dakota

SEVENTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 1999

743C0467

## SENATE ENGROSSED NO. **HB1107** - 2/19/99

Introduced by: Representatives Cutler, Broderick, Chicoine, Fiegen, Fischer-Clemens, Peterson, and Wilson and Senators Olson, Munson (David), Reedy, Rounds, and Shoener

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding mutually binding  
2 agreements between beer wholesalers and brewers, to revise a term relative to beer industry  
3 relationships, and to make provisions for malt beverage brand extensions.

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

5 Section 1. That § 35-8A-12 be amended to read as follows:

6 35-8A-12. Any waiver of the rights or remedies granted by this chapter is void. However,  
7 nothing in this chapter limits or prohibits suppliers and wholesalers from entering into mutually  
8 binding written agreements as defined in this chapter or to limit or prohibit good faith dispute  
9 settlements voluntarily entered into by the parties. However, no provision of any written  
10 agreement may purport to require the law of any state other than South Dakota to govern the  
11 relationship of the parties or to require wholesalers to waive the right to have disputes with their  
12 suppliers resolved in courts of competent jurisdiction in South Dakota or to require a wholesaler  
13 to waive the right to trial by jury in South Dakota.

14 Section 2. That § 35-8A-9 be amended to read as follows:

15 35-8A-9. Any party to a distribution agreement aggrieved by a violation of any provision of

1 this chapter may seek injunctive relief enjoining the violation and recovery of damages caused  
2 by the violation. The prevailing party to any action charging a violation of this chapter is entitled  
3 to recover costs of suit and reasonable attorney's fees. Relief shall be sought in a civil action  
4 brought in the circuit court for the county in which the ~~wholesaler has his~~ wholesaler's principal  
5 place of business is located, ~~or in any other court of competent jurisdiction, whether state or~~  
6 ~~federal~~ or in a federal court of competent jurisdiction located in South Dakota.

7 After a dispute arises, arbitration shall proceed only if all parties agree, at that time, to submit  
8 the dispute to arbitration and that the decision of the arbitrators shall be final and binding. The  
9 dispute shall be submitted to a panel of three arbitrators. One arbitrator shall be selected by the  
10 supplier within thirty days after the parties have agreed to arbitrate. One arbitrator shall be  
11 selected by the wholesaler within thirty days after the parties have agreed to arbitrate. The third  
12 arbitrator shall be selected from a list of five candidates supplied by the American Arbitration  
13 Association at the request of the parties and made within ten days after the parties have agreed  
14 to submit the dispute to arbitration. Within ten days after receipt of the list, the wholesaler and  
15 the supplier may disqualify up to two candidates from the list. The American Arbitration  
16 Association shall select the third arbitrator from the candidates not disqualified by the parties.  
17 The arbitration shall proceed in accordance with the rules of the American Arbitration  
18 Association within thirty days after the selection of the arbitration panel has been completed. The  
19 cost of the arbitration shall be borne equally by the parties. The award of a majority of the  
20 arbitrators shall be final and binding on the parties.

21 Section 3. That chapter 35-8A be amended by adding thereto a NEW SECTION to read as  
22 follows:

23 For purposes of this chapter, the term, brand, means any word, name, group of letters,  
24 symbol, or combination thereof, that is adopted and used by a brewer or importer to identify a  
25 specific beer product, and to distinguish that beer product from another beer product.

1 Section 4. That chapter 35-8A be amended by adding thereto a NEW SECTION to read as  
2 follows:

3 For purposes of this chapter, the term, brand extension, means any brand that incorporates  
4 all or a substantial part of the unique features of a preexisting brand of the same brewer or  
5 importer and that relies to a significant extent on the goodwill associated with that preexisting  
6 brand.

7 Section 5. That chapter 35-8A be amended by adding thereto a NEW SECTION to read as  
8 follows:

9 Any brewer or importer, who assigns a brand extension to a wholesaler, shall assign the  
10 brand extension to the wholesaler to whom the brewer or importer granted the exclusive sales  
11 territory for the brand from which the brand extension resulted. This requirement does not apply  
12 to any assignment of a brand extension to a wholesaler that was made by a brewer or importer  
13 before the effective date of this Act.

14 Section 6. That chapter 35-8A be amended by adding thereto a NEW SECTION to read as  
15 follows:

16 If prior to the effective date of this Act, a brewer or importer assigned a brand extension to  
17 a wholesaler who was not the appointed wholesaler for the brand from which the brand extension  
18 was made, then any additional brand extension shall be assigned to the wholesaler who first had  
19 the brand.

20 Section 7. That subdivision (6) of § 35-8A-2 be amended to read as follows:

21 (6) "Good faith," the duty of each party to any agreement to ~~act in a fair and equitable~~  
22 manner in carrying out the agreement ~~deal with the other party in a fair, reasonable,~~  
23 and nondiscriminatory manner consistent with reasonable commercial standards of fair  
24 dealing;

25 Section 8. That § 35-8A-4 be amended to read as follows:

1 35-8A-4. No supplier may:

2 (1) Induce or coerce, or attempt to induce or coerce, a wholesaler to do any illegal act  
3 by threatening to amend, cancel, terminate, or refuse to renew any agreement existing  
4 between the supplier and wholesaler, or by any other means;

5 (2) Require a wholesaler by any means to participate in or contribute to any local or  
6 national advertising fund controlled directly or indirectly by a supplier, unless the cost  
7 is allocated fairly to each wholesaler in that market area according to sales to the  
8 wholesalers;

9 (3) Withhold delivery of malt beverages ordered by a wholesaler or change a wholesaler's  
10 quota of a brand or brands if the action is not made in good faith;

11 (4) Require a wholesaler to accept delivery of any malt beverages or other item or  
12 commodity which was not ordered by the wholesaler or which was ordered but  
13 properly canceled by the wholesaler in accordance with the procedures previously  
14 established by the supplier. However, a supplier may impose reasonable inventory  
15 requirements upon a wholesaler if the requirements are made in good faith and are  
16 generally applied to other similarly situated wholesalers of the supplier;

17 (5) Require a wholesaler to purchase one or more brands of malt beverages in order for  
18 the wholesaler to purchase another brand or brands of malt beverage for any reason;

19 (6) Prohibit a wholesaler from dealing in any product not supplied by the supplier,  
20 including any product of any other supplier of any other alcoholic beverage or any  
21 nonalcoholic product, or in any way attempt to regulate or control ancillary businesses  
22 of a wholesaler;

23 (7) Fix or maintain the price at which a wholesaler may resell malt beverages;

24 (8) Take any action not in good faith against a wholesaler for or because of the filing of  
25 a complaint regarding an alleged violation by the supplier of any state or federal law

1 or administrative rule;

2 (9) ~~Require or prohibit without good cause any change in the manager or successor~~  
3 ~~manager of a wholesaler who has been approved by the supplier~~ Refuse to approve  
4 any proposed manager or successor manager without good cause or require or  
5 prohibit any change in the manager or successor manager of a wholesaler who has  
6 been previously approved by the supplier without good cause. For the purposes of  
7 this subdivision, good cause is the failure of a manager or successor manager to meet  
8 commercially reasonable standards or to perform commercially reasonable duties as  
9 specified in an agreement between the supplier and wholesaler; or

10 (10) Withdraw from or discontinue supplying to a wholesaler one or more brands or  
11 packages of malt beverages. However, nothing in this subdivision prohibits a supplier  
12 from withdrawing or discontinuing any brand or package on a statewide or on a media  
13 coverage area basis at any time on reasonable notice or conducting test marketing of  
14 a new brand or of a brand of beer which is not currently being sold in this state.

15 Section 9. That chapter 35-8A be amended by adding thereto a NEW SECTION to read as  
16 follows:

17 The provisions of this Act apply to any agreement in existence as of July 1, 1999, as well as  
18 any agreement entered into after July 1, 1999. Any written agreement in existence on July 1,  
19 1999, which is continuous in nature or which has no specific duration or renewal provision, shall  
20 be considered, for the purpose of this Act, to have been renewed ninety days after July 1, 1999.

1 **BILL HISTORY**

2 1/21/99 First read in House and referred to Commerce. H.J. 111

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

4 2/2/99 Commerce Do Pass Amended, Passed, AYES 11, NAYS 2. H.J. 313

5 2/4/99 Motion to Amend, Passed. H.J. 383

6 2/4/99 House of Representatives Do Pass Amended, Passed, AYES 63, NAYS 2. H.J. 384

7 2/5/99 First read in Senate and referred to Commerce. S.J. 347

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

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

10 2/16/99 Commerce Do Pass Amended, Passed, AYES 6, NAYS 1. S.J. 492

11 2/18/99 Motion to Amend, Passed. S.J. 571

12 2/18/99 Senate Do Pass Amended, Passed, AYES 30, NAYS 3. S.J. 572

# State of South Dakota

SEVENTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 1999

654C0121

## HOUSE TAXATION COMMITTEE ENGROSSED NO. **HB1159** - 2/19/99

Introduced by: Representatives Waltman, Apa, Burg, Cerny, Crisp, Cutler, Hagen, Haley, Hanson, Kazmerzak, Koetzle, Kooistra, Lintz, Lockner, Lucas, McIntyre, McNenny, Patterson, and Weber and Senators Dennert, Kloucek, Lange, and Moore

1 FOR AN ACT ENTITLED, An Act to use cash rent to determine the value of agricultural land  
2 and to repeal the nonagricultural acreage classification.

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

4 Section 1. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 The agricultural income value for agricultural land shall be determined pursuant to § 10-6-  
7 33.15. The agricultural income value is the same as the value of agricultural land under the  
8 income approach required by § 10-6-33. The director of equalization shall consider this approach  
9 to value agricultural land as the only approach that is applicable pursuant to § 10-6-33 in  
10 determining the value of agricultural land.

11 Section 2. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as  
12 follows:

13 The agricultural income value for agricultural land as determined pursuant to § 10-6-33.15  
14 and section 1 of this Act represents one hundred percent of the value. The director of  
15 equalization shall make the necessary adjustment to each valuation so that the assessment

1 represents eighty-five percent of the value as determined by the Department of Revenue.

2 Section 3. That § 10-6-1 be amended to read as follows:

3 10-6-1. Terms used in this chapter mean:

4 (1) "Credit," every claim and demand for money or other valuable thing and every annuity  
5 or sum of money receivable at stated periods, due or to become due, and all claims  
6 and demands secured by deeds or mortgages due or to become due, except for  
7 contracts for deed and mortgages, in which case the term means only the payment  
8 received each year under the contract or mortgage;

9 (2) "District," township, municipality, or ward, as the case may be;

10 (3) "Full agricultural land value," the value of agricultural land as determined by the  
11 application of this chapter;

12 (4) "Money," gold and silver coin, treasury notes, bank notes, and every deposit which  
13 any person owning the same or holding in trust and residing in this state is entitled to  
14 withdraw in money on demand;

15 (5) "Tract," "lot," "piece," or "parcel" of real property, or "piece or parcel of land," any  
16 contiguous quantity of land in the possession of, owned by, or recorded as, the  
17 property of the same claimant, person, or company;

18 (6) "True and full value," for all real property, except agricultural land, the usual cash  
19 selling price at the place where the property to which the term is applied shall be at  
20 the time of the assessment.

21 Section 4. That § 10-6-33.1 be amended to read as follows:

22 10-6-33.1. The true and full value in money of agricultural land, as defined by § 10-6-31,  
23 which has been in primarily agricultural use for at least five successive years immediately  
24 preceding the tax year for which assessment is to be made shall be the ~~market~~ value as  
25 determined for each county through the use of all comparable ~~sales~~ cash rent of agricultural land

1 based on consideration of the following factors:

2 (1) The capacity of the land to produce agricultural products as defined in § 10-6-33.2;

3 and

4 (2) The soil, location, size, terrain, and topographical condition of the property including

5 ~~but not limited to~~ capability, the land's use, climate, accessibility, and surface

6 obstructions which can be documented through an analysis of ~~land selling prices~~ cash

7 rent.

8 ~~The comparable sales that are used shall be evidenced by an instrument recorded with the~~

9 ~~register of deeds of the county in which the land is located, if the date of such instrument and the~~

10 ~~recording date is not more than two years prior to the assessment year~~ cash rent information shall

11 be collected and analyzed pursuant to §§ 10-6-33.15 and 10-6-33.16.

12 Section 5. That § 10-6-33.6 be amended to read as follows:

13 10-6-33.6. If the ~~median value~~ cash rent per acre in an identifiable region within a county

14 deviates by more than ten percent from the county average, the county director of equalization

15 may establish a separate ~~market~~ value per acre for the land defined by the director of equalization

16 within that region.

17 Section 6. That § 10-6-33.14 be repealed.

18 ~~10-6-33.14. Any agricultural land, as defined in § 10-6-31.3, which sells for more than one~~

19 ~~hundred fifty percent of its agricultural income value is hereby classified for purposes of ad~~

20 ~~valorem taxation as a nonagricultural acreage. The agricultural income value shall be determined~~

21 ~~pursuant to § 10-6-33.15.~~

22 Section 7. That § 10-6-33.15 be amended to read as follows:

23 10-6-33.15. For the purposes of § ~~10-6-33.14~~ section 1 of this Act, the agricultural income

24 value shall be determined using capitalized actual annual cash rent. The actual annual cash rent

25 is the actual annual cash rent, excluding the ~~actual~~ average county tax per acre ~~tax~~ on agricultural

1 land, determined through an analysis of actual arm's length rental agreements collected within  
2 the county in the year prior to the year for which the income value is being determined. The  
3 annual cash rent shall be capitalized at eight percent. The Department of Revenue may  
4 promulgate rules pursuant to chapter 1-26 prescribing the formula and method employed to  
5 determine the annual cash rent.

6 Section 8. That § 10-6-33.16 be amended to read as follows:

7 10-6-33.16. The secretary of revenue may enter into a contract for the collection of cash rent  
8 information by county. Cash rent information shall be adjusted by soil survey statistics, terrain,  
9 and topographical condition of the land including the land's location, size, use, climate,  
10 accessibility, and surface obstructions, if available.

11 Section 9. That § 10-6-33.17 be repealed.

12 ~~— 10-6-33.17. Any land which is classified pursuant to §§ 10-6-33.14 to 10-6-33.19, inclusive,~~  
13 ~~shall remain so classified for a minimum of five years. Five years after the land is so classified,~~  
14 ~~the land may be reclassified as agricultural land if the land remains in agricultural use during the~~  
15 ~~five year period and if the owner of the land submits an annual application to the director of~~  
16 ~~equalization. The application shall include verified documentation that the land has been in~~  
17 ~~agricultural use during past year. If the land meets the criteria set forth in § 10-6-31.3, has been~~  
18 ~~in agricultural use for five years, and the application requirement in this section is complied with,~~  
19 ~~the director of equalization may reclassify the nonagricultural acreage as agricultural land.~~

20 Section 10. That § 10-6-33.18 be repealed.

21 ~~— 10-6-33.18. Land classified pursuant to §§ 10-6-33.14 to 10-6-33.19, inclusive, shall be~~  
22 ~~valued for ad valorem tax purposes at the price for which such land sold multiplied times the~~  
23 ~~level of assessment for nonagricultural property within the county. The value of such land shall~~  
24 ~~be increased or decreased each year by the same percentage that the value of nonagricultural~~  
25 ~~property increases or decreases.~~

1 Section 11. That § 10-6-33.20 be repealed.

2 ~~10-6-33.20. Any agricultural land, as defined in § 10-6-31.3, which is sold in an increment~~  
3 ~~of seventy acres or less, may not be used for the purpose of valuing agricultural land. The sale~~  
4 ~~of any agricultural land, which is not used for purpose of valuing agricultural property pursuant~~  
5 ~~to this section, may not be used in any sales ratio study.~~

6 Section 12. That § 10-11-56.5 be repealed.

7 ~~10-11-56.5. No sale of any land which is classified pursuant to § 10-6-58 may be used in any~~  
8 ~~sales ratio study.~~

9 Section 13. That § 10-11-57 be repealed.

10 ~~10-11-57. In order to determine the ratio for agricultural land assessed pursuant to~~  
11 ~~§ 10-6-33.1, the secretary of revenue shall compare the assessed valuations on properties used~~  
12 ~~for tax purposes in the year sold with the agricultural values of those properties as determined~~  
13 ~~under §§ 10-6-33.1 and 10-6-33.2.~~

14 Section 14. That § 10-12-31.1 be amended to read as follows:

15 10-12-31.1. Notwithstanding other provision of law, when applying the levies for school  
16 purposes, the county director of equalization of each county shall adjust the level of assessment  
17 in that district so that the level of assessment as indicated by the most recent assessment to sales  
18 ratio as provided for in § 10-11-55 and the most recent ~~assessment to full agricultural land value~~  
19 ~~ratio~~ agricultural income value as provided for in ~~§ 10-11-57~~ § 10-6-33.15 in that district are  
20 equal to eighty-five percent of market or income value. The Department of Revenue shall  
21 provide the director of equalization of each county all of the factors of adjustment necessary for  
22 the computations required in this section.

1 **BILL HISTORY**

2 1/25/99 First read in House and referred to Taxation. H.J. 176

3 2/18/99 Scheduled for Committee hearing on this date.

4 2/18/99 Taxation Do Pass, Failed, AYES 6, NAYS 5.

5 2/18/99 Taxation Report Without Recommendation, AYES 9, NAYS 2. H.J. 608

# State of South Dakota

SEVENTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 1999

664C0575

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB1164** - 2/19/99

**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 Local Government Hog Housed.

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

9 2/18/99 Local Government Do Pass Amended, Passed, AYES 11, NAYS 0. H.J. 599

# State of South Dakota

SEVENTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 1999

226C0443

## HOUSE EDUCATION COMMITTEE ENGROSSED NO. **HB1178** - 2/19/99

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. H.J. 600

# State of South Dakota

SEVENTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 1999

670C0568

SENATE TRANSPORTATION COMMITTEE

ENGROSSED NO. **HB1193** - 2/16/99

Introduced by: Representatives Monroe and Garnos and Senator Rounds

1 FOR AN ACT ENTITLED, An Act to revise the definition of a temporary supplemental lot.

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

3 Section 1. That subdivision (17) of § 32-6B-1 be amended to read as follows:

4 (17) "Temporary supplemental lot," a location other than the principal place of business  
5 or supplemental lot but within the same county as the principal place of business, or  
6 in an adjoining county, if the adjoining county has no licensed vehicle dealer selling  
7 automobiles, pick-ups, or passenger vans and the temporary supplemental lot is no  
8 more than ten miles from the principal place of business, where a licensed vehicle  
9 dealer or a licensed used vehicle dealer may conduct business for a period of time not  
10 to exceed ten consecutive days for a specific purpose such as fairs, auto shows,  
11 auctions, shopping center promotions, or tent sales. A temporary supplemental lot  
12 shall meet all local zoning and building codes for the type of business being  
13 conducted. If a licensed vehicle dealer establishes a temporary supplemental lot in a  
14 county with a licensed used vehicle dealer, a licensed used vehicle dealer may establish  
15 a temporary supplemental lot in a county with a licensed vehicle dealer;

16

1 **BILL HISTORY**

2 1/27/99 First read in House and referred to Transportation. H.J. 211

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

4 2/3/99 Transportation Do Pass Amended, Passed, AYES 13, NAYS 0. H.J. 345

5 2/5/99 House of Representatives Do Pass Amended, Passed, AYES 58, NAYS 5. H.J. 404

6 2/8/99 First read in Senate and referred to Transportation. S.J. 382

7 2/11/99 Scheduled for Committee hearing on this date.

8 2/16/99 Scheduled for Committee hearing on this date.

9 2/16/99 Transportation Do Pass Amended, Passed, AYES 7, NAYS 0. S.J. 494

10 2/16/99 Transportation Place on Consent Calendar.

# State of South Dakota

SEVENTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 1999

680C0696

## SENATE COMMERCE COMMITTEE ENGROSSED NO. **HB1207** - 2/16/99

Introduced by: Representatives Michels, Crisp, Duniphan, Earley, and Monroe and Senators  
Everist, Daugaard, and Halverson

1 FOR AN ACT ENTITLED, An Act to increase the time period for which a driver's license is  
2 revoked for certain drug offenses.

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

4 Section 1. That § 32-12-52.3 be amended to read as follows:

5 32-12-52.3. Upon a first conviction or a first adjudication of delinquency for a violation,  
6 while in a motor vehicle, of §§ 22-42-5 to 22-42-11, inclusive, 22-42A-3 or 22-42A-4, the court  
7 shall revoke the driver's license or driving privilege of the person so convicted for a period of  
8 ~~ninety~~ one hundred eighty days. However, the sentencing court may impose a sentence other  
9 than that specified in this section if the court finds that mitigating circumstances exist which  
10 require a departure from the mandatory sentence provided for in this section. The court's finding  
11 of mitigating circumstances allowed by this section and the factual basis relied upon by the court  
12 shall be in writing.

13 Upon a second or subsequent conviction or a second or subsequent adjudication of  
14 delinquency for a violation, while in a motor vehicle, of §§ 22-42-5 to 22-42-11, inclusive,  
15 22-42A-3 or 22-42A-4, the court shall revoke the driver's license or driving privilege of the  
16 person so convicted for a period of one year or until the person's seventeenth birthday, whichever

1 is a longer period of time. For any offense under this section, the court may issue an order  
2 permitting the person to operate a motor vehicle for purposes of the person's employment or  
3 attendance at school. Notwithstanding the provisions of chapters 26-7A, 26-8A, 26-8B, and  
4 26-8C, the Unified Judicial System shall notify the Department of Commerce and Regulation of  
5 any conviction or adjudication of delinquency for a violation, while in a motor vehicle, of  
6 §§ 22-42-5 to 22-42-11, inclusive, 22-42A-3 or 22-42A-4. The period of revocation shall begin  
7 on the date the person's revoked driver's license is received by the court or the department. At  
8 the expiration of the revocation period, a person may make application as provided by law and  
9 shall pay the license fee prescribed in § 32-12-47.1.

1 **BILL HISTORY**

2 1/27/99 First read in House and referred to committee assignment waived. H.J. 213

3 1/28/99 Referred to Judiciary. H.J. 240

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

5 2/1/99 Judiciary Do Pass, Passed, AYES 10, NAYS 1. H.J. 310

6 2/3/99 House of Representatives Do Pass, Passed, AYES 61, NAYS 1. H.J. 354

7 2/4/99 First read in Senate and referred to Commerce. S.J. 342

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

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

10 2/16/99 Commerce Do Pass Amended, Passed, AYES 6, NAYS 1. S.J. 493

# State of South Dakota

SEVENTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 1999

911C0167

HOUSE APPROPRIATIONS COMMITTEE

ENGROSSED NO. **HB1218** - 2/19/99

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. H.J. 594

# State of South Dakota

SEVENTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 1999

840C0730

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB1224** - 2/19/99

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

Introduced by: Representatives Fiegen, Brown (Richard), Cutler, Peterson, Roe, and Volesky  
and Senators Daugaard, Brown (Arnold), Lawler, and Moore

1 FOR AN ACT ENTITLED, An Act to govern the conditions under which a municipality may  
2 grant additional CATV franchises.

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

4 Section 1. That chapter 9-35 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 No municipality may grant any franchise for CATV service with an annual occupational tax  
7 different than that offered to any other CATV franchisee.

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 Local Government. H.J. 241

4 2/11/99 Scheduled for Committee hearing on this date.

5 2/16/99 Scheduled for Committee hearing on this date.

6 2/18/99 Scheduled for Committee hearing on this date.

7 2/18/99 Local Government Do Pass Amended, Failed, AYES 6, NAYS 7.

# State of South Dakota

SEVENTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 1999

194C0694

## HOUSE EDUCATION COMMITTEE ENGROSSED NO. **HB1229** - 2/19/99

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 authorities.

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. H.J. 604

# State of South Dakota

SEVENTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 1999

507C0438

## HOUSE TAXATION COMMITTEE ENGROSSED NO. **HB1232** - 2/19/99

**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 Taxation Hog Housed.

9 2/18/99 Scheduled for Committee hearing on this date.

10 2/18/99 Taxation Do Pass Amended, Passed, AYES 9, NAYS 3. H.J. 607

# State of South Dakota

SEVENTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 1999

725C0659

## HOUSE AGRICULTURE AND NATURAL RESOURCES COMMITTEE ENGROSSED NO.

### **HB1233** - 2/19/99

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 H.J. 625

11 2/18/99 Recalled from committee (Rule 7-7). H.J. 606

# 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

591C0791

## SENATE ENGROSSED NO. **HB1262** - 2/18/99

Introduced by: Representatives Apa, Crisp, Napoli, and Sutton (Duane) and Senators Albers and Brown (Arnold)

1 FOR AN ACT ENTITLED, An Act to provide a procedure to form a road district if there is  
2 three or less landowners and to prohibit the transfer of the jurisdiction of certain public  
3 highways to a road district.

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

5 Section 1. That § 31-12A-1 be amended to read as follows:

6 31-12A-1. ~~A populated~~ Any area outside the boundary of a municipality, which is situated  
7 so that the construction or maintenance of roads becomes desirable, may be incorporated by its  
8 landowner or landowners as a road district pursuant to this chapter.

9 Section 2. That chapter 31-12A be amended by adding thereto a NEW SECTION to read  
10 as follows:

11 Notwithstanding any other provision of chapter 31-12A, one, two, or three landowners may  
12 form a road district pursuant to this chapter. If there are three or less landowners, each  
13 landowner shall be a trustee at large and no election of trustees is required. After the district is  
14 incorporated and the number of landowners within the district is five or more, the district shall  
15 conduct an election pursuant to § 31-12A-16. The district shall conduct the election on the next  
16 anniversary date of the formation of the district.

1           Section 3. That chapter 31-12A be amended by adding thereto a NEW SECTION to read  
2 as follows:

3           No political subdivision of the state may relinquish or transfer jurisdiction over any public  
4 highway to a road district.

1 **BILL HISTORY**

2 1/29/99 First read in House and referred to Local Government. H.J. 269

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

4 2/9/99 Local Government Do Pass, Passed, AYES 13, NAYS 0. H.J. 430

5 2/10/99 House of Representatives Do Pass, Passed, AYES 63, NAYS 3. H.J. 471

6 2/11/99 First read in Senate and referred to Local Government. S.J. 455

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

8 2/17/99 Local Government Do Pass, Passed, AYES 6, NAYS 0. S.J. 518

9 2/18/99 Motion to Amend, Passed. S.J. 575

10 2/18/99 Senate Do Pass Amended, Passed, AYES 24, NAYS 8. S.J. 575

11 2/18/99 Senate Title Amended Passed. S.J. 576

# 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** - 2/19/99

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

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. H.J. 594

# State of South Dakota

SEVENTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 1999

359C0136

## SENATE AGRICULTURE AND NATURAL RESOURCES COMMITTEE ENGROSSED NO.

### **SB5** - 1/29/99

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

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

1 FOR AN ACT ENTITLED, An Act to establish the value added agriculture subfund and provide  
2 for its funding and disbursement.

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

4 Section 1. That chapter 1-16G be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 There is created within the revolving economic development and initiative fund created in  
7 § 1-16G-3 the value added agriculture subfund. The purpose of the subfund created by this  
8 section is to make grants or loans for agricultural development, feasibility studies, or marketing.

9 Section 2. That chapter 1-16G be amended by adding thereto a NEW SECTION to read as  
10 follows:

11 The Board of Economic Development shall designate three million dollars of the money in  
12 the revolving economic development and initiative fund for the purposes of the value added  
13 agriculture subfund.

14 Section 3. That § 10-47B-119 be amended to read as follows:

1       10-47B-119. Any motor fuel consumer may apply for and obtain a refund of fuel taxes  
2 imposed and paid to this state, for motor fuel purchased and used by the consumer in motor  
3 vehicles, recreation vehicles, and farm equipment used for nonhighway agricultural purposes; or  
4 used in vehicles or equipment for nonhighway commercial uses. The portion of this refund  
5 attributed to nonhighway use of motor vehicles shall be calculated by multiplying the motor  
6 vehicle's average miles per gallon during the claim period times the number of nonhighway miles  
7 the vehicle was operated. The average miles per gallon and nonhighway miles shall be supported  
8 by actual individual vehicle fuel disbursement records and odometer readings. The portion of this  
9 refund attributed to nonhighway machinery and equipment shall be supported by individual  
10 vehicle fuel disbursement records. Three cents per gallon of each tax refund shall be deposited  
11 in the value added agriculture subfund created in section 1 of this Act. For the purposes of this  
12 section, the refund applies to any purchases of motor fuel made after July 1, 1999.

13       Section 4. That chapter 1-16G be amended by adding thereto a NEW SECTION to read as  
14 follows:

15       The Board of Economic Development shall administer the value added agriculture subfund,  
16 and make grants or loans from the value added agriculture subfund. The value added agriculture  
17 subfund shall be used to develop and promote value added agriculture in South Dakota including  
18 the initial or subsequent production, use, or processing of any form of agricultural commodity,  
19 product, or by-product in this state. For projects which involve a separate agricultural research  
20 component, the Board of Economic Development shall consult with the research services of  
21 South Dakota State University.

22       Section 5. That chapter 1-16G be amended by adding thereto a NEW SECTION to read as  
23 follows:

24       In connection with the administration of the value added agriculture subfund, the Board of  
25 Economic Development may, pursuant to chapter 1-26, adopt such rules as it deems necessary

1 to implement the purposes of this Act, including:

- 2 (1) Setting the application procedures for those who apply for loans or grants from the  
3 value added agriculture subfund;
- 4 (2) Establishing criteria to determine which applicants will receive such loans or grants;
- 5 (3) Governing the use of proceeds of such loans or grants;
- 6 (4) Establishing criteria for the terms and conditions upon which such loans or grants  
7 shall be made, including the terms of security given, if any, to secure such loans; and
- 8 (5) Governing the use of proceeds by lenders of funds advanced to the lenders by the  
9 board including the terms and conditions upon which the proceeds shall be loaned to  
10 borrowers for the purposes described in this Act.

11 Section 6. That § 1-16G-24 be amended to read as follows:

12 1-16G-24. Earnings on the revolving economic development and initiative fund and the value  
13 added agriculture subfund may be used for the administrative costs of the Division of Finance  
14 of the Governor's Office of Economic Development. Such earnings shall be expended in  
15 accordance with the provisions of Title 4 on warrants drawn by the state auditor on vouchers  
16 approved by the commissioner of the Governor's Office of Economic Development. Eligible  
17 expenses may not exceed total interest earnings during the previous fiscal year prior to the  
18 deduction of loan losses for the same fiscal year.

1 **BILL HISTORY**

2 1/12/99 First read in Senate and referred to Agriculture and Natural Resources. S.J. 16

3 1/19/99 Scheduled for Committee hearing on this date.

4 1/19/99 Agriculture and Natural Resources Deferred to another day.

5 1/28/99 Scheduled for Committee hearing on this date.

6 1/28/99 Agriculture and Natural Resources Do Pass Amended, Passed, AYES 8, NAYS 1.

7 S.J. 228

# 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

400C0240

SENATE HEALTH AND HUMAN SERVICES  
COMMITTEE ENGROSSED NO. **SB55** -  
1/28/99

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 costs of care and  
2 treatment and calculation thereof for persons receiving treatment from the Human Services  
3 Center.

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

5 Section 1. That § 27A-13-2 be amended to read as follows:

6 27A-13-2. Terms used in this chapter mean:

7 (1)(a) "Full time equivalent patient population in the center's psychiatric nursing facility  
8 unit," the total daily patient count in that unit at the South Dakota Human Services  
9 Center for the immediately preceding fiscal year divided by the number of days in that  
10 fiscal year;

11 (b) "Full time equivalent patient population, excluding psychiatric nursing facility  
12 unit patients," the total daily patient count, excluding those patients in the  
13 center's psychiatric nursing facility unit, at the South Dakota Human Services  
14 Center for the immediately preceding fiscal year divided by the number of days  
15 in that fiscal year;

1 (2)(a) "Per diem for the center's psychiatric nursing facility unit," the daily ~~charge~~ amount,  
2 set by the secretary of human services, ~~to be charged~~ for the daily care, support,  
3 maintenance, and treatment of a patient in the center's psychiatric nursing facility unit  
4 during any part of the period of time for which the ~~charge~~ amount is set if it has been  
5 determined that the patient or legally responsible person or agency is not able to pay  
6 the total service charge;

7 (b) "Per diem for any of the center's treatment programs, other than the psychiatric  
8 nursing facility unit," the daily ~~charge~~ amount, set by the secretary of human  
9 services, ~~to be charged~~ for the daily care, support, maintenance, and treatment  
10 of a patient in any of the center's acute, adolescent, alcohol, drug, extended  
11 (chronic), or other such treatment units, other than the center's psychiatric  
12 nursing facility unit, during any part of the period of time for which the ~~charge~~  
13 amount is set if it has been determined that the patient or legally responsible  
14 person or agency is not able to pay the total service charge;

15 (3) "Responsible person," a person legally liable for the support and maintenance of a  
16 patient. A parent is not liable for the expenses of ~~his~~ an adult child;

17 (4) "Total service charge," the actual cost of providing services to an individual patient  
18 at the South Dakota Human Services Center.

19 Section 2. That chapter 27A-13 be amended by adding thereto a NEW SECTION to read  
20 as follows:

21 The secretary of human services shall direct the Human Services Center to calculate and  
22 maintain for each patient at the center a billing statement itemizing the individual charges for the  
23 care, support, maintenance, and treatment provided to each patient. The center shall determine  
24 the patient or legally responsible person or agency's ability to pay such charges considering such  
25 factors as the person's financial ability to pay and the availability of commercial insurance or

1 other third-party payors. If the center determines that the patient or legally responsible person  
2 or agency is able to pay the total service charge, the charge shall be assessed and collected by  
3 the Human Services Center. If the center determines that the patient or legally responsible person  
4 lacks the ability to pay the total service charge based upon the before-mentioned considerations,  
5 the patient's account shall be assessed to the state.

6 Section 3. That chapter 27A-13 be amended by adding thereto a NEW SECTION to read  
7 as follows:

8 The secretary of human services shall promulgate rules, pursuant to chapter 1-26, to establish  
9 a method to determine the fee for each service or test based on the actual cost of performing the  
10 service or test and the determination of ability to pay and indigence. The secretary of human  
11 services shall periodically review and approve the listing of itemized charges.

12 Section 4. That § 27A-13-7 be amended to read as follows:

13 27A-13-7. The secretary of human services shall periodically approve ~~the individual charges~~  
14 for the per diem rate for the care, support, maintenance, and treatment provided to each patient  
15 by or at the expense of the South Dakota Human Services Center for the fiscal year during which  
16 the services are rendered and cause such ~~charges amount~~, or portion thereof as may be  
17 appropriate, to be assessed monthly against and collected from the patient or responsible person,  
18 agency, or other entity legally liable for paying all or any part of the patient's applicable ~~charges~~  
19 amount if it has been determined that the patient or that the legally responsible person or agency  
20 is not financially able to pay the total service charge.

21 The secretary shall ~~base the charges~~ set the per diem rate based on the center's actual  
22 expenditures during the fiscal year immediately preceding the fiscal year for which the ~~charges~~  
23 are amount is being determined and shall compute that determination of the ~~charges amount~~ as  
24 follows:

25 (1) The total expenditures of the center for operating the center's psychiatric nursing

1 facility, including an apportionment of all the center's support services to that unit, for  
2 the fiscal year immediately preceding the fiscal year for which the ~~charges are~~ amount  
3 is being determined shall be computed in accordance with generally accepted  
4 accounting procedures. In so doing, the secretary may not include any of the  
5 following:

- 6 (a) Capital expenditures for land or building fixed assets;
- 7 (b) Expenditures for special educational programs required by state or federal law  
8 to be provided to center patients who are under the age of twenty-one years;
- 9 (c) Expenditures for direct medical care provided to a patient at medical facilities  
10 other than the center, the cost of which shall be charged directly against the  
11 patient who received that care at the exact cost to the center as a "total service  
12 charge" for that care.

13 Those total expenditures shall then be divided by the average daily on roll census of  
14 the center's psychiatric nursing facility unit to arrive at the per diem ~~charge~~ amount  
15 for that unit for the fiscal year.

- 16 (2) The total expenditures of the center for operating all of its treatment units, excepting  
17 its psychiatric nursing facility unit, including an apportionment of all the center's  
18 support services to those units, for the fiscal year immediately preceding the fiscal  
19 year for which ~~charges are~~ amount is being determined, shall be computed in  
20 accordance with generally accepted accounting procedures. In so doing, the secretary  
21 may not include the following:

- 22 (a) Capital expenditures for land or building fixed assets;
- 23 (b) Expenditures for special educational programs required by state or federal law  
24 to be provided to center patients who are under the age of twenty-one years;
- 25 (c) Expenditures for direct medical care provided to a patient at medical facilities

1 other than the center, the cost of which shall be charged directly against the  
2 patient who received that care at the exact cost to the center as a "total service  
3 charge" for that care.

4 Those total expenditures shall then be divided by the center's average daily on roll  
5 census, excluding psychiatric nursing facility patients, to arrive at the per diem ~~charge~~  
6 amount for all the center's treatment units, excepting the psychiatric nursing facility  
7 unit, for the fiscal year.

8 Section 5. That § 27A-13-8 be amended to read as follows:

9 27A-13-8. Any patient who is determined by the secretary of human services to be unable  
10 to pay the total services charge, but who is determined, as ~~set down~~ provided in §§ 27A-13-9  
11 and 27A-13-10, to be financially able to pay the per diem rate shall continue to be charged the  
12 per diem cost for each day of continuous patient status.

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

5 1/27/99 Health and Human Services Do Pass Amended, Passed, AYES 6, NAYS 0. S.J. 204

# 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

646C0479

## SENATE JUDICIARY COMMITTEE ENGROSSED NO. **SB190** - 2/2/99

Introduced by: Senators Vitter, Albers, Daugaard, Ham, Lawler, and Madden and  
Representatives Hennies, Duniphan, and McCoy

1 FOR AN ACT ENTITLED, An Act to prohibit certain sexual acts between certain jail and  
2 juvenile correctional facility employees and prisoners and to provide a penalty therefor.

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

4 Section 1. That chapter 24-11 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 Any person employed at any jail or juvenile correctional facility, who knowingly engages in  
7 an act of sexual contact or sexual penetration with another person who is in detention and under  
8 the custodial, supervisory, or disciplinary authority of the person so engaging, is guilty of a Class  
9 6 felony.

10 Section 2. That chapter 24-11 be amended by adding thereto a NEW SECTION to read as  
11 follows:

12 A juvenile correctional facility pursuant to this Act is a juvenile detention facility as defined  
13 in subdivision 26-7A-1(16) or a juvenile facility operated by the Department of Corrections  
14 under § 1-15-1.4.

1 **BILL HISTORY**

2 1/28/99 First read in Senate and referred to Judiciary. S.J. 232

3 2/1/99 Scheduled for Committee hearing on this date.

4 2/1/99 Judiciary Do Pass Amended, Passed, AYES 7, NAYS 0. S.J. 272

# State of South Dakota

SEVENTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 1999

400C0805

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **SB235** - 2/10/99

Introduced by: The Committee on State Affairs at the request of the Governor

1 FOR AN ACT ENTITLED, An Act to require the disclosure of information to prospective  
2 enrollees of managed care plans.

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

4 Section 1. This Act applies to any health carrier who offers a managed care plan as defined  
5 in §§ 58-17-91 and 58-18-64.

6 Section 2. Any health carrier shall provide to any prospective enrollee written information  
7 describing the terms and conditions of the plan. If the plan is described orally, easily understood,  
8 truthful, objective terms shall be used. All written plan descriptions shall be readable, easily  
9 understood, truthful, and in an objective format. The format shall be standardized among each  
10 plan that a health carrier offers so that comparison of the attributes of the plans is facilitated.

11 The following specific information shall be communicated:

12 (1) Coverage provisions, benefits, and any exclusions by category of service, provider,  
13 and if applicable, by specific service;

14 (2) Any and all authorization or other review requirements, including preauthorization  
15 review, and any procedures that may lead the patient to be denied coverage for or not  
16 be provided a particular service;

- 1       (3)    The existence of any financial arrangements or contractual provisions with review  
2            companies or providers of health care services that would directly or indirectly limit  
3            the services offered, restrict referral, or treatment options;
- 4       (4)    Explanation of how plan limitations impact enrollees, including information on  
5            enrollee financial responsibility for payment of coinsurance or other non-covered or  
6            out-of-plan services;
- 7       (5)    A description of the accessibility and availability of services, including a list of  
8            providers participating in the managed care network and of the providers in the  
9            network who are accepting new patients, the addresses of primary care physicians and  
10           participating hospitals, and the specialty of each provider in the network; and
- 11      (6)    A description of any drug formulary provisions in the plan and the process for  
12            obtaining a copy of the current formulary upon request. There shall be a process for  
13            requesting an exception to the formulary and instructions as to how to request an  
14            exception to the formulary.

15       Section 3. Nothing in this Act applies to dental only, vision only, accident only, school  
16      accident, travel, or specified disease plans or plans that primarily provide a fixed daily, fixed  
17      occurrence, or fixed per procedure benefit without regard to expenses incurred. The provisions  
18      of this Act only apply to oral or written communications specifically designed to elicit an  
19      application for insurance.

1 **BILL HISTORY**

2 2/1/99 First read in Senate and referred to State Affairs. S.J. 278

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

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

5 2/8/99 State Affairs Do Pass Amended, Passed, AYES 8, NAYS 0. S.J. 391

# State of South Dakota

SEVENTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 1999

400C0808

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **SB236** - 2/10/99

Introduced by: The Committee on State Affairs at the request of the Governor

1 FOR AN ACT ENTITLED, An Act to establish standards for network adequacy and quality of  
2 care in managed care plans and to require the registration of managed care entities.

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

4 Section 1. Terms used in this Act mean:

5 (1) "Closed plan," a managed care plan that requires covered persons to use participating  
6 providers under the terms of the managed care plan and does not provide any benefits  
7 for out-of-network services except for emergency services;

8 (2) "Consumer," someone in the general public who may or may not be a covered person  
9 or a purchaser of health care, including employers;

10 (3) "Covered benefits" or "benefits," those health care services to which a covered person  
11 is entitled under the terms of a plan;

12 (4) "Covered person," a policyholder, subscriber, enrollee, or other individual  
13 participating in a plan;

14 (5) "Director," the director of the Division of Insurance;

15 (6) "Discounted fee for service," a contractual arrangement between a health carrier and  
16 a provider or network of providers under which the provider is compensated in a

1 discounted fashion based upon each service performed and under which there is no  
2 contractual responsibility on the part of the provider to manage care, to serve as a  
3 gatekeeper or primary care provider, or to provide or assure quality of care. A  
4 contract between a provider or network of providers and a health maintenance  
5 organization is not a discounted fee for service arrangement;

6 (7) "Emergency medical condition," the sudden and, at the time, unexpected onset of a  
7 health condition that requires immediate medical attention, where failure to provide  
8 medical attention would result in serious impairment to bodily functions or serious  
9 dysfunction of a bodily organ or part, or would place the person's health in serious  
10 jeopardy;

11 (8) "Emergency services," health care items and services furnished or required to evaluate  
12 and treat an emergency medical condition;

13 (9) "Facility," an institution providing health care services or a health care setting,  
14 including hospitals and other licensed inpatient centers, ambulatory surgical or  
15 treatment centers, skilled nursing centers, residential treatment centers, diagnostic,  
16 laboratory and imaging centers, and rehabilitation and other therapeutic health  
17 settings;

18 (10) "Health benefit plan," a policy, contract, certificate, or agreement entered into, offered  
19 or issued by a health carrier to provide, deliver, arrange for, pay for or reimburse any  
20 of the costs of health care services;

21 (11) "Health care professional," a physician or other health care practitioner licensed,  
22 accredited, or certified to perform specified health services consistent with state law;

23 (12) "Health care provider" or "provider," a health care professional or a facility;

24 (13) "Health care services," services for the diagnosis, prevention, treatment, cure, or relief  
25 of a health condition, illness, injury, or disease;

- 1 (14) "Health carrier," an entity subject to the insurance laws and regulations of this state,  
2 or subject to the jurisdiction of the director, that contracts or offers to contract, or  
3 enters into an agreement to provide, deliver, arrange for, pay for, or reimburse any of  
4 the costs of health care services, including a sickness and accident insurance company,  
5 a health maintenance organization, a nonprofit hospital, and health service  
6 corporation, or any other entity providing a plan of health insurance, health benefits,  
7 or health services;
- 8 (15) "Health indemnity plan," a health benefit plan that is not a managed care plan;
- 9 (16) "Intermediary," a person authorized to negotiate and execute provider contracts with  
10 health carriers on behalf of health care providers or on behalf of a network;
- 11 (17) "Managed care plan," a plan as defined in subdivisions 58-17-91(3) and 58-18-64(3);
- 12 (18) "Network," the group of participating providers providing services to a managed care  
13 plan;
- 14 (19) "Open plan," a managed care plan other than a closed plan that provides incentives,  
15 including financial incentives, for covered persons to use participating providers under  
16 the terms of the managed care plan;
- 17 (20) "Participating provider," a provider who, under a contract with the health carrier or  
18 with its contractor or subcontractor, has agreed to provide health care services to  
19 covered persons with an expectation of receiving payment, other than coinsurance,  
20 copayments or deductibles, directly or indirectly from the health carrier;
- 21 (21) "Quality assessment," the measurement and evaluation of the quality and outcomes  
22 of medical care provided to individuals, groups, or populations;
- 23 (22) "Quality improvement," the effort to improve the processes and outcomes related to  
24 the provision of care within the health plan;
- 25 (23) "Secretary," the secretary of the Department of Health.

1 Section 2. This Act applies to all health carriers that offer managed care plans.

2 Section 3. A health carrier providing a managed care plan shall maintain a network that is  
3 sufficient in numbers and types of providers to assure that all services to covered persons will  
4 be accessible without unreasonable delay. In the case of emergency services, covered persons  
5 shall have access twenty-four hours per day, seven days per week. Sufficiency shall be  
6 determined in accordance with the requirements of this section, and may be established by  
7 reference to any reasonable criteria used by the carrier, including: provider-covered person ratios  
8 by specialty; primary care provider-covered person ratios; geographic accessibility; waiting times  
9 for appointments with participating providers; hours of operation; and the volume of  
10 technological and specialty services available to serve the needs of covered persons requiring  
11 technologically advanced or specialty care.

12 Section 4. In any case where the health carrier has an insufficient number or type of  
13 participating provider to provide a covered benefit, the health carrier shall ensure that the  
14 covered person obtains the covered benefit at no greater cost to the covered person than if the  
15 benefit were obtained from participating providers, or shall make other arrangements acceptable  
16 to the director.

17 Section 5. The health carrier shall establish and maintain adequate arrangements to ensure  
18 reasonable proximity of participating providers to the business or personal residence of covered  
19 persons.

20 Section 6. A health carrier shall monitor, on an ongoing basis, the ability, clinical capacity,  
21 and legal authority of its providers to furnish all contracted benefits to covered persons. In the  
22 case of capitated plans, the health carrier shall also monitor the financial capability of the  
23 provider.

24 Section 7. In determining whether a health carrier has complied with any network adequacy  
25 provision of this Act, the director shall give due consideration to the relative availability of health

1 care providers in the service area and to the willingness of providers to join a network.

2 Section 8. A health carrier shall file with the director, in a manner and form defined by rules  
3 promulgated pursuant to chapter 1-26 by the director, an access plan meeting the requirements  
4 of this Act for each of the managed care plans that the carrier offers in this state. The carrier shall  
5 prepare an access plan prior to offering a new managed care plan, and shall annually update an  
6 existing access plan. The access plan shall describe or contain at least the following:

- 7 (1) The health carrier's network;
- 8 (2) The health carrier's procedures for making referrals within and outside its network;
- 9 (3) The health carrier's process for monitoring and assuring on an ongoing basis the  
10 sufficiency of the network to meet the health care needs of populations that enroll in  
11 managed care plans;
- 12 (4) The health carrier's methods for assessing the health care needs of covered persons  
13 and their satisfaction with services;
- 14 (5) The health carrier's method of informing covered persons of the plan's services and  
15 features, including the plan's grievance procedures and its procedures for providing  
16 and approving emergency and specialty care;
- 17 (6) The health carrier's system for ensuring the coordination and continuity of care for  
18 covered persons referred to specialty physicians, for covered persons using ancillary  
19 services, including social services and other community resources, and for ensuring  
20 appropriate discharge planning;
- 21 (7) The health carrier's process for enabling covered persons to change primary care  
22 professionals;
- 23 (8) The health carrier's proposed plan for providing continuity of care in the event of  
24 contract termination between the health carrier and any of its participating providers,  
25 or in the event of the health carrier's insolvency or other inability to continue

1 operations. The description shall explain how covered persons will be notified of the  
2 contract termination, or the health carrier's insolvency or other cessation of  
3 operations, and transferred to other providers in a timely manner; and

4 (9) Any other information required by the director to determine compliance with the  
5 provisions of this Act.

6 The provisions of subdivisions (2), (4), (6), (7), and (8), of this section, and the provisions  
7 regarding primary care provider-covered person ratios and hours of operation in section 3 of this  
8 Act do not apply to discounted fee-for-service only networks.

9 Section 9. A health carrier offering a managed care plan shall satisfy all the following  
10 requirements:

11 (1) A health carrier shall establish a mechanism by which the participating provider will  
12 be notified on an ongoing basis of the specific covered health services for which the  
13 provider will be responsible, including any limitations or conditions on services;

14 (2) In no event may a participating provider collect or attempt to collect from a covered  
15 person any money owed to the provider by the health carrier nor may the provider  
16 have any recourse against covered persons for any covered charges in excess of the  
17 copayment, coinsurance, or deductible amounts specified in the coverage;

18 (3) The provisions of this Act do not require a health carrier, its intermediaries or the  
19 provider networks with which they contract, to employ specific providers or types of  
20 providers that may meet their selection criteria, or to contract with or retain more  
21 providers or types of providers than are necessary to maintain an adequate network;

22 (4) A health carrier shall notify participating providers of the providers' responsibilities  
23 with respect to the health carrier's applicable administrative policies and programs,  
24 including payment terms, utilization review, quality assessment, and improvement  
25 programs, grievance procedures, data reporting requirements, confidentiality

- 1 requirements, and any applicable federal or state programs;
- 2 (5) A health carrier may not prohibit or penalize a participating provider from discussing  
3 treatment options with covered persons irrespective of the health carrier's position on  
4 the treatment options, from advocating on behalf of covered persons within the  
5 utilization review or grievance processes established by the carrier or a person  
6 contracting with the carrier or from, in good faith, reporting to state or federal  
7 authorities any act or practice by the health carrier that jeopardizes patient health or  
8 welfare;
- 9 (6) A health carrier shall contractually require a provider to make health records available  
10 to the carrier upon request but only those health records necessary to process claims,  
11 perform necessary quality assurance or quality improvement programs, or to comply  
12 with any lawful request for information from appropriate state authorities. Any person  
13 that is provided records pursuant to this section shall maintain the confidentiality of  
14 such records and may not make such records available to any other person who is not  
15 legally entitled to the records;
- 16 (7) A health carrier and participating provider shall provide at least sixty days written  
17 notice to each other before terminating the contract without cause. If a provider is  
18 terminated without cause or chooses to leave the network, upon request by the  
19 provider or the covered person and upon agreement by the provider to follow all  
20 applicable network requirements, the carrier shall permit the covered person to  
21 continue an ongoing course of treatment for ninety days following the effective date  
22 of contract termination. In the event of a covered person that has entered a second  
23 trimester of pregnancy at the time of contract termination as specified in this section,  
24 the continuation of network coverage through that provider shall extend to the  
25 provision of postpartum care directly related to the delivery;

- 1 (8) A health carrier shall notify the participating providers of their obligations, if any, to  
2 collect applicable coinsurance, copayments, or deductibles from covered persons  
3 pursuant to the evidence of coverage, or of the providers' obligations, if any, to notify  
4 covered persons of their personal financial obligations for noncovered services;
- 5 (9) A health carrier shall establish a mechanism by which the participating providers may  
6 determine in a timely manner whether or not a person is covered by the carrier.

7 Section 10. In any contractual arrangement between a health carrier and an intermediary, the  
8 following shall apply:

- 9 (1) A health carrier's ultimate statutory responsibility to monitor the offering of covered  
10 benefits to covered persons shall be maintained whether or not any functions or duties  
11 are contractually delegated or assigned to the intermediary;
- 12 (2) A health carrier shall have the right to approve or disapprove participation status of  
13 a subcontracted provider in its own or a contracted network for the purpose of  
14 delivering covered benefits to the carrier's covered persons;
- 15 (3) A health carrier shall maintain copies of all intermediary health care subcontracts at  
16 its principal place of business in the state, or ensure that it has access to all  
17 intermediary subcontracts, including the right to make copies to facilitate regulatory  
18 review, upon twenty days prior written notice from the health carrier;
- 19 (4) If applicable, an intermediary shall transmit utilization documentation and claims paid  
20 documentation to the health carrier. The carrier shall monitor the timeliness and  
21 appropriateness of payments made to providers and health care services received by  
22 covered persons;
- 23 (5) An intermediary shall maintain the books, records, financial information and  
24 documentation of services provided to covered persons and preserve them for  
25 examination pursuant to chapter 58-3;

1 (6) An intermediary shall allow the director access to the intermediary's books, records,  
2 financial information, and any documentation of services provided to covered persons,  
3 as necessary to determine compliance with this Act;

4 (7) A health carrier shall have the right, in the event of the intermediary's insolvency, to  
5 require the assignment to the health carrier of the provisions of a provider's contract  
6 addressing the provider's obligation to furnish covered services.

7 Section 11. A health carrier shall file with the director sample contract forms proposed for  
8 use with its participating providers and intermediaries. A health carrier shall submit material  
9 changes to a sample contract that would affect a provision required by this Act or any rules  
10 promulgated pursuant to this Act to the director for approval thirty days prior to use. Changes  
11 in provider payment rates, coinsurance, copayments, or deductibles, or other plan benefit  
12 modifications are not considered material changes for the purpose of this section. If the director  
13 takes no action within thirty days after submission of a material change to a contract by a health  
14 carrier, the change is deemed approved. The health carrier shall maintain provider and  
15 intermediary contracts and provide copies to the division or department upon request.

16 Section 12. The execution of a contract by a health carrier does not relieve the health carrier  
17 of its liability to any person with whom it has contracted for the provision of services, nor of its  
18 responsibility for compliance with the law or applicable regulations. Any contract shall be in  
19 writing and subject to review by the director, if requested.

20 Section 13. In addition to any other remedies permitted by law, if the director determines that  
21 a health carrier has not contracted with enough participating providers to assure that covered  
22 persons have accessible health care services in a geographic area, or that a health carrier's access  
23 plan does not assure reasonable access to covered benefits, or that a health carrier has entered  
24 into a contract that does not comply with this Act, or that a health carrier has not complied with  
25 a provision of this Act, the director may institute a corrective action that shall be followed by the

1 health carrier, or may use any of the director's other enforcement powers to obtain the health  
2 carrier's compliance with this Act.

3 Section 14. The director may, after consultation with the secretary, promulgate pursuant to  
4 chapter 1-26 reasonable rules to protect the public in its purchase of network health insurance  
5 products, achieve the goals of this Act by ensuring adequate networks and by assuring quality  
6 of health care to the public that purchases network products. The rules may include:

- 7 (1) Definition of terms;
- 8 (2) Provider/covered person ratios;
- 9 (3) Geographic access requirements;
- 10 (4) Accessibility of care;
- 11 (5) Contents of reports and filings;
- 12 (6) Notification requirements;
- 13 (7) Selection criteria;
- 14 (8) Recordkeeping;
- 15 (9) Setting of quality criteria based upon type of network; and
- 16 (10) Quality assurance/quality improvement plans.

17 Section 15. Each managed care entity, as defined in §§ 58-18-64 and 58-17-91, shall register  
18 with the director prior to engaging in any managed care business in this state. The registration  
19 shall be subject to the provisions of §§ 58-18-71 to 58-18-75, inclusive, and any applicable rules  
20 promulgated pursuant to those sections.

21 Section 16. A health carrier that provides managed care plans shall develop and maintain the  
22 infrastructure and disclosure systems necessary to measure the quality of health care services  
23 provided to covered persons on a regular basis and appropriate to the types of plans offered by  
24 the health carrier. A health carrier shall:

- 25 (1) Utilize a system designed to assess the quality of health care provided to covered

1 persons and appropriate to the types of plans offered by the health carrier. The system  
2 shall include systematic collection, analysis, and reporting of relevant data in  
3 accordance with statutory and regulatory requirements. The level of quality  
4 assessment activities undertaken by a health plan may vary based on the plan's  
5 structure with the least amount of quality assessment activities required being those  
6 plans which are open and the provider network is simply a discounted fee for service  
7 preferred provider organization;

8 (2) File a written description of the quality assessment program with the director in the  
9 prescribed general format, which shall include a signed certification by a corporate  
10 officer of the health carrier that the filing meets the requirements of this Act.

11 Section 17. A health carrier that issues a closed plan, or a combination plan having a closed  
12 component, shall, in addition to complying with the requirements of section 16 of this Act,  
13 develop and maintain the internal structures and activities necessary to improve the quality of  
14 care being provided. Quality improvement activities for a health carrier subject to the  
15 requirements of this section should, at a minimum, involve:

16 (1) Developing a written quality improvement plan designed to analyze both the  
17 processes and outcomes of the health care delivered to covered persons;

18 (2) Establishing an internal system to implement the quality improvement plan and to  
19 specifically identify opportunities to improve care and using the findings of the system  
20 to improve the health care delivered to covered persons; and

21 (3) Assuring that participating providers have the opportunity to participate in  
22 developing, implementing, and evaluating the quality improvement system.

23 The health carrier shall provide a copy of the quality improvement plan to the director or  
24 secretary, if requested.

25 Section 18. Nothing in this Act applies to health carrier's plans that do not contain provider

1 networks or to dental only, vision only, accident only, school accident, travel, or specified  
2 disease plans or plans that primarily provide a fixed daily, fixed occurrence, or fixed per  
3 procedure benefit without regard to expenses incurred.

4 Section 19. If the director and secretary find that the requirements of any private accrediting  
5 body meet the requirements of network adequacy, quality assurance, or quality improvement as  
6 set forth in this Act, the carrier may, at the discretion of the director and secretary, be deemed  
7 to have met the applicable requirements.

8 Section 20. That § 58-41-12 be amended to read as follows:

9 58-41-12. Upon receipt of an application for issuance of a certificate of authority, the  
10 director shall forthwith transmit copies of such application and accompanying documents to the  
11 secretary. The secretary shall determine whether the applicant for a certificate of authority has:

- 12 (1) Demonstrated the willingness and potential ability to assure that health care services  
13 will be provided in a manner to assure both the availability and accessibility of  
14 adequate personnel and facilities ~~and in a manner enhancing availability, accessibility~~  
15 ~~and continuity of service~~ consistent with the requirements of this Act;
- 16 (2) Arrangements, established in accordance with regulations promulgated by the  
17 secretary for an ongoing quality of health care assurance program consistent with the  
18 requirements of this Act concerning health care processes and outcomes;
- 19 (3) A procedure, established in accordance with regulations promulgated by the secretary,  
20 to develop, compile, evaluate, and report statistics relating to the cost of its  
21 operations, the pattern of utilization of its services, the availability and accessibility  
22 of its services, and such other matters as may be reasonably required by the secretary;  
23 and
- 24 (4) Reasonable provisions for emergency and out-of-area health care services.

25 Section 21. That § 58-41-53 be repealed.

1 ~~58-41-53. No health maintenance organization or representative may allow providers under~~  
2 ~~agreement with a health maintenance organization to have recourse against enrollees for amounts~~  
3 ~~above those specified in the evidence of coverage as the periodic prepayment, or copayment, for~~  
4 ~~health care services. Violation of this section is a Class 2 misdemeanor.~~

5 Section 22. Nothing in this Act applies to health carriers that only offer individual policies  
6 if:

7 (1) The policy does not use an individual or group to determine where or when services  
8 will be rendered, the course of treatment, or who will provide the services;

9 (2) The policy does not require pre-authorization for services provided under the policy;  
10 and

11 (3) The difference in policy benefits does not exceed ten percent whether an insured used  
12 a participating provider or nonparticipating provider.

13 Section 23. The Division of Insurance shall separately monitor complaints regarding managed  
14 care for any policy that is exempt pursuant to section 22 of this Act.

1 **BILL HISTORY**

2 2/1/99 First read in Senate and referred to State Affairs. S.J. 278

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

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

5 2/8/99 State Affairs Do Pass Amended, Passed, AYES 8, NAYS 0. S.J. 392

# State of South Dakota

SEVENTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 1999

995C0455

SENATE STATE AFFAIRS COMMITTEE

ENGROSSED NO. **SCR3** - 1/22/99

Introduced by: Senators Frederick, Benson, Drake, Hainje, Hutmacher, and Olson and  
Representatives Richter and Putnam

1 A CONCURRENT RESOLUTION, Defending South Dakota's right to all funds to be received  
2 through the 1998 tobacco settlement.

3 WHEREAS, on November 23, 1998, the Attorneys General and other representatives of  
4 forty-six states, Puerto Rico, the U.S. Virgin Islands, the Northern Mariana Islands, Guam, and  
5 the District of Columbia signed an agreement with the five largest tobacco manufacturers; and

6 WHEREAS, this agreement was designed to aid in the fight against teenage tobacco use and  
7 to educate the public as to the health hazards of tobacco use; and

8 WHEREAS, South Dakota is projected to receive a total of \$683,650,008 through 2025  
9 from the terms of this settlement; and

10 WHEREAS, state and local governments are in a far better position than is the federal  
11 government to fight teenage tobacco use and oversee public education regarding the hazards of  
12 tobacco use; and

13 WHEREAS, the federal government may attempt to recoup a portion of federal health care  
14 payments by claiming tobacco settlement funds:

15 NOW, THEREFORE, BE IT RESOLVED, by the Senate of the Seventy-fourth Legislature  
16 of the State of South Dakota, the House of Representatives concurring therein, that the United

- 1 States Congress and the President of the United States be memorialized to allow the State of
- 2 South Dakota complete discretion over all funds received through the 1998 tobacco settlement,
- 3 and not to entertain any claims by the federal government on these funds.

1 **BILL HISTORY**

2 1/22/99 Scheduled for Committee hearing on this date.

3 1/22/99 State Affairs Adopt Resolution as Amended, AYES 8, NAYS 0. S.J. 154