



# State of South Dakota

SEVENTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 1999

457C0771

## SENATE ENGROSSED NO. **HB1213** - 2/24/99

Introduced by: Representatives Napoli, Apa, Brooks, Brown (Jarvis), Brown (Richard), Crisp, Cutler, Diedrich (Larry), Diedrich (Elmer), Duenwald, Eccarius, Engbrecht, Hagen, Hennies, Juhnke, Klaudt, Koetzle, Kooistra, Koskan, Lintz, Lucas, McCoy, McNenny, Monroe, Munson (Donald), Peterson, Pummel, Putnam, Roe, Slaughter, Smidt, Solum, Sutton (Duane), Weber, Wetz, Windhorst, and Young and Senators Rounds, Benson, Bogue, Brosz, Brown (Arnold), Drake, Flowers, Hutmacher, Kleven, Madden, Moore, Munson (David), and Staggers

1 FOR AN ACT ENTITLED, An Act to protect the normal operation and use of sport shooting  
2 ranges.

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

4 Section 1. The use or operation of a sport shooting range may not be enjoined as a nuisance  
5 if the range is in compliance with those statutes, regulations, and ordinances that applied to the  
6 range and its operation at the time when the initial operation of the range commenced. The use  
7 or operation of a sport shooting range may not be enjoined as a nuisance due to any subsequent  
8 change in any statute, regulation, or ordinance pertaining to the normal operation and use of  
9 sport shooting ranges.

10 Section 2. The use or operation of a sport shooting range may not be enjoined as a nuisance  
11 by a person who acquires title to real property adversely affected by the normal operation and  
12 use of a sport shooting range which commenced operation prior to the time the person acquired  
13 title.

1 Section 3. The provisions of this Act do not apply to any recovery for any act or omission  
2 relating to the operation or use of any sport shooting range based on negligence or willful or  
3 wanton misconduct.

4 Section 4. The provisions of this Act do not apply if there has been a substantial change in  
5 the primary use of a sport shooting range.

6 Section 5. This Act does not prohibit a local government from regulating the location and  
7 construction of sport shooting ranges after the effective date of this Act.

8 Section 6. For the purposes of this Act, a sport shooting range is an area designed and  
9 operated for the use of rifles, shotguns, or pistols as a means of silhouette, skeet, trap, black  
10 powder, or other sport shooting. A sport shooting range includes a law enforcement shooting  
11 range.

12 Section 7. The provisions of this Act apply prospectively and do not apply to any action filed  
13 before the effective date of this Act.

1 **BILL HISTORY**

2 1/27/99 First read in House and referred to committee assignment waived. H.J. 214

3 1/28/99 Referred to Agriculture and Natural Resources. H.J. 240

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

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

6 2/9/99 Agriculture and Natural Resources Do Pass Amended, Passed, AYES 12, NAYS 1.

7 H.J. 458

8 2/12/99 House of Representatives Do Pass Amended, Passed, AYES 59, NAYS 5. H.J. 515

9 2/16/99 First read in Senate and referred to State Affairs. S.J. 506

10 2/19/99 Scheduled for Committee hearing on this date.

11 2/19/99 State Affairs Deferred to another day.

12 2/22/99 Scheduled for Committee hearing on this date.

13 2/22/99 State Affairs Do Pass, Passed, AYES 9, NAYS 0. S.J. 611

14 2/23/99 Motion to Amend, Passed. S.J. 646

15 2/23/99 Senate Do Pass Amended, Passed, AYES 33, NAYS 0. S.J. 646

# State of South Dakota

SEVENTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 1999

283C0874

## HOUSE COMMERCE COMMITTEE ENGROSSED NO. **HCR1010** - 2/24/99

Introduced by: Representatives Fischer-Clemens, Burg, Cerny, Chicoine, Clark, Davis, Diedrich (Elmer), Hanson, Kazmerzak, Koehn, Koetzle, Lockner, McIntyre, Patterson, Sutton (Daniel), Sutton (Duane), Waltman, Weber, Wetz, Wilson, and Windhorst and Senators Olson, Dennert, Duxbury, Flowers, Hutmacher, Kloucek, Lange, Madden, Moore, Munson (David), Reedy, Staggers, and Symens

1 A CONCURRENT RESOLUTION, Urging Congress to inform the public of the costs of long-  
2 term care and to promote coverage of individuals under long-term care insurance.

3 WHEREAS, as the baby boom generation begins to retire, funding Social Security and  
4 Medicare will put a strain on the financial resources of younger Americans; and

5 WHEREAS, In many states Medicaid is being used for middle income elderly people to fund  
6 long-term care expenses; and

7 WHEREAS, in the coming decade, people over age sixty-five will represent up to twenty  
8 percent or more of the population, and the proportion of the population composed of individuals  
9 who are over age eighty-five, who are most likely to be in need of long-term care, may double  
10 or triple; and

11 WHEREAS, with nursing home care now costing thirty-six thousand five hundred dollars  
12 on average per year, long-term care expenses can have a catastrophic effect on families, wiping  
13 out a lifetime of savings before a spouse, parent, or grandparent becomes eligible for Medicaid;  
14 and

1       WHEREAS, many people are unaware that most long-term care costs are not covered by  
2 Medicare and that Medicaid covers long-term care only after the person's assets have been  
3 exhausted; and

4       WHEREAS, widespread use of private long-term care insurance has the potential to protect  
5 families from the catastrophic costs of long-term care services while, at the same time, easing the  
6 burden on Medicaid as the baby boom generation ages; and

7       WHEREAS, the federal government has endorsed the concept of private long-term care  
8 insurance by establishing federal tax rules for tax-qualified policies in the Health Insurance  
9 Portability and Accountability Act of 1996; and

10       WHEREAS, the federal government has ensured the availability of quality long-term care  
11 insurance products and sales practices by adopting strict consumer protections in the Health  
12 Insurance Portability and Accountability Act of 1996:

13       NOW, THEREFORE, BE IT RESOLVED, by the House of Representatives of the Seventy-  
14 fourth Legislature of the State of South Dakota, the Senate concurring therein, that the federal  
15 government be urged to take all appropriate steps to inform the public about the financial risks  
16 posed by rapidly increasing long-term care costs and about the need for families to plan for their  
17 long-term care needs; and

18       BE IT FURTHER RESOLVED, that the federal government be urged to take all appropriate  
19 steps to inform the public that Medicare does not cover most long-term care costs and that  
20 Medicaid covers long-term care costs only when the beneficiary has exhausted his or her assets;  
21 and

22       BE IT FURTHER RESOLVED, that the federal government be urged to take all appropriate  
23 steps not only to encourage employers to offer private long-term care insurance coverage to  
24 employees, but also to encourage both working-aged people and older citizens to obtain long-  
25 term care insurance either through their employers or on their own; and

1 BE IT FURTHER RESOLVED, that the appropriate committees of Congress, together with  
2 the Department of Health and Human Services and other appropriate federal agencies, be urged  
3 to develop specific ideas for encouraging Americans to plan for their own long-term care needs;  
4 and

5 BE IT FURTHER RESOLVED, that the congressional tax-writing committees, together  
6 with the Department of the Treasury be urged to determine whether the tax rules for long-term  
7 care insurance need to be modified to ensure that the rules adequately facilitate the affordability  
8 of long-term care insurance.

1 **BILL HISTORY**

2 2/23/99 Scheduled for Committee hearing on this date.

3 2/23/99 Commerce Adopt Resolution as Amended, AYES 11, NAYS 1. H.J. 696

# State of South Dakota

SEVENTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 1999

555C0055

## SENATE ENGROSSED NO. **SB1** - 1/25/99

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

Introduced by: Senators Olson, Brosz, and Dennert and Representatives Diedrich (Larry), Broderick, Chicoine, Cutler, Monroe, Smidt, and Waltman at the request of the Interim Taxation Committee

1 FOR AN ACT ENTITLED, An Act to revise the procedure for the valuation of real property.

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

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

5 Any real property which sells for more than one hundred fifty percent of its assessed value,  
6 may not be used for the purpose of valuing other real property. The sale of any real property  
7 which is not used for the purpose of valuing other real property pursuant to this section may not  
8 be used in any sales ratio study.

1 **BILL HISTORY**

2 1/12/99 First read in Senate and referred to Agriculture and Natural Resources. S.J. 15

3 1/13/99 Senate Referred to Taxation. S.J. 39

4 1/15/99 Scheduled for Committee hearing on this date.

5 1/20/99 Taxation Do Pass, Passed, AYES 9, NAYS 0. S.J. 126

6 1/20/99 Scheduled for Committee hearing on this date.

7 1/21/99 Senate Deferred to another day. S.J. 148

8 1/25/99 Senate Do Pass Amended, Passed, AYES 34, NAYS 0. S.J. 181

9 1/25/99 Senate Title Amended Passed. S.J. 182

# State of South Dakota

SEVENTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 1999

400C0244

SENATE APPROPRIATIONS COMMITTEE

ENGROSSED NO. **SB38** - 2/16/99

Introduced by: The Committee on Appropriations at the request of the Department of  
Environment and Natural Resources

1 FOR AN ACT ENTITLED, An Act to repeal certain provisions regarding the transfer of funds  
2 from the regulated substance response fund and to make an appropriation to the fund.

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

4 Section 1. That § 34A-12-3.2 be repealed.

5 ~~—34A-12-3.2. On July first of each year, the state treasurer shall transfer all amounts in excess~~  
6 ~~of one million seven hundred fifty thousand dollars from the regulated substance response fund~~  
7 ~~established pursuant to § 34A-12-3, to the environment and natural resources fee fund~~  
8 ~~established pursuant to § 1-40-30 to be expended in the manner and for the purposes of that~~  
9 ~~fund.~~

10 Section 2. There is hereby appropriated from the environment and natural resources fee fund  
11 established pursuant to § 1-40-30, the sum of five hundred sixty-seven thousand seventy-two  
12 dollars (\$567,072), to the regulated substance response fund created pursuant to § 34A-12-3,  
13 to be expended for the purposes provided for in chapter 34A-12.

14 Section 3. That § 34A-12-4 be amended to read as follows:

15 34A-12-4. When necessary in the performance of ~~his~~ the secretary's duties under  
16 §§ 23A-27-25, 34A-1-39, 34A-2-75, 34A-6-1.4, 34A-6-1.31, 34A-11-9, 34A-11-10,

1 34A-11-12, 34A-11-14, 34A-12-1 to 34A-12-15, inclusive, 38-20A-9, 45-6B-70, 45-6C-45,  
2 45-6D-60, and 45-9-68 and Title 34A relative to discharges, the secretary may expend funds  
3 from the response fund to provide for the costs of investigations, emergency remedial efforts,  
4 corrective actions, and managerial or administrative activities associated with such activities. The  
5 secretary's use of the response fund shall be based upon the following:

6 (1) In the case of an investigation, when the secretary determines that a discharge ~~has~~  
7 probably requiring an emergency remedial effort may have occurred and that the  
8 general operating budget of the department for such purposes is not adequate to  
9 cover the costs of the necessary investigatory activities;

10 (2) In the case of an emergency remedial effort, when the secretary determines that a  
11 discharge has occurred and that corrective actions shall be immediately undertaken  
12 to protect an imminent threat to the public health or safety or to contain a discharge  
13 which, if not immediately contained, shall in time pose a significantly greater threat  
14 to public health or safety or to the environment of this state than if such action is not  
15 immediately taken;

16 (3) In the case of a discharge not of an emergency nature when the secretary determines  
17 that a discharge has occurred, that a responsible party or liability fund capable of  
18 performing the corrective actions either cannot be identified or refuses to undertake  
19 corrective actions, and that corrective actions shall be undertaken to protect the public  
20 health, safety, welfare, or environment of the state.

1 **BILL HISTORY**

2 1/12/99 First read in Senate and referred to Appropriations. S.J. 22

3 1/22/99 Scheduled for Committee hearing on this date.

4 1/26/99 Scheduled for Committee hearing on this date.

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

6 2/12/99 Appropriations Do Pass Amended, Passed, AYES 10, NAYS 0. S.J. 468

# State of South Dakota

SEVENTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 1999

400C0264

## SENATE ENGROSSED NO. **SB60** - 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 establish certain criteria for the state trunk highway  
2 system.

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

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

5 31-4-1. The state trunk highway system shall be as designated ~~and adopted~~ by the Legislature  
6 ~~from time to time is hereby perpetuated in statute. In designating the state trunk highway system,~~  
7 the Legislature shall consider, but not be limited to, the following primary factors:

- 8 (1) Highways which are functionally classified as arterials as approved by the Federal  
9 Highway Administration;
- 10 (2) Highways providing service to a state or federal recreational access area;
- 11 (3) The proximity of other state trunk highways and highways providing duplicating or  
12 similar service;
- 13 (4) The cost of construction, maintenance, right-of-way, and the extent of needs on the  
14 state system;
- 15 (5) The traffic volumes and other traffic survey data; and
- 16 (6) The desirability of providing an integrated system to serve interstate travel, county

1           seats, and cities of four hundred fifty population or greater.

2           An existing highway segment may not be removed from the state trunk highway system  
3 unless an agreement for transfer of maintenance responsibility has been executed by the  
4 Department of Transportation and the local government unit to which the title and maintenance  
5 responsibility would be transferred.

6           Section 2. The Transportation commission may designate, by rules promulgated pursuant to  
7 chapter 1-26, a segment of the state trunk highway system as a minimum maintenance road if the  
8 commission determines that the segment is used only occasionally or intermittently for passenger  
9 or commercial travel. The commission shall publish a list of the state highway segments proposed  
10 to be designated as minimum maintenance segments each year and provide an opportunity for  
11 public input pursuant to chapter 1-26 before making the final designations. The commission shall  
12 identify the beginning and end points of the segment designated as minimum maintenance. A  
13 minimum maintenance segment may be maintained at a level less than the minimum standards for  
14 full maintenance roads, but shall be maintained at the level required to serve the occasional or  
15 intermittent traffic.

16           Section 3. The Department of Transportation shall post signs on a minimum maintenance  
17 segment of road to notify motor vehicle drivers that it is a minimum maintenance segment and  
18 that travel on the road is at the driver's own risk. The signs shall be posted at the entry points to  
19 and at regular intervals along a minimum maintenance segment. A properly posted sign is prima  
20 facie evidence that adequate notice of a minimum maintenance has been given to the motor  
21 vehicle driver.

1 **BILL HISTORY**

2 1/12/99 First read in Senate and referred to Transportation. S.J. 26

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

4 1/21/99 Transportation Do Pass, Passed, AYES 7, NAYS 0. S.J. 141

5 1/21/99 Transportation Place on Consent Calendar.

6 1/25/99 Senate Deferred to another day. S.J. 182

7 1/27/99 Senate Deferred to another day. S.J. 220

8 1/28/99 Referred to Transportation. S.J. 239

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

10 2/11/99 Scheduled for Committee hearing on this date.

11 2/11/99 Transportation Do Pass Amended, Passed, AYES 6, NAYS 0. S.J. 445

12 2/11/99 Transportation Place on Consent Calendar.

13 2/17/99 Motion to Amend, Passed. S.J. 527

14 2/17/99 Senate Do Pass Amended, Passed, AYES 25, NAYS 9. S.J. 527

# State of South Dakota

SEVENTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 1999

681C0178

## HOUSE TAXATION COMMITTEE ENGROSSED NO. **SB68** - 2/24/99

Introduced by: Senators Madden, Albers, Daugaard, Frederick, Hainje, Lange, Munson (David), Shoener, Vitter, and Whiting and Representatives Duenwald, Brooks, Brown (Richard), Fischer-Clemens, Fitzgerald, Konold, Koskan, McCoy, Peterson, Pummel, and Smidt

1 FOR AN ACT ENTITLED, An Act to increase the fees the sheriff is allowed for collecting  
2 taxes.

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

4 Section 1. That § 10-56-22 be amended to read as follows:

5 10-56-22. The sheriff shall collect the following fees for collecting taxes: ~~one dollar~~ twenty-  
6 five dollars for making ~~his~~ the sheriff's return on ~~his~~ a warrant of authority; ~~one dollar~~ fifteen  
7 dollars for each levy; ~~one dollar~~ ten dollars for each sale; and the necessary costs of distress and  
8 sale. The fees and costs shall be collected from the tax debtor or ~~his~~ the tax debtor's property.  
9 ~~Where actual travel is made in collecting taxes, the~~ The sheriff shall also collect from the tax  
10 debtor or ~~his~~ the tax debtor's property ~~an additional penalty, in lieu of mileage, a penalty equal~~  
11 ~~to fifteen percent of the amount of tax and interest due, which, with all fees and costs collected,~~  
12 due, which shall be credited to the general fund of the county. The sheriff shall receive mileage,  
13 at the rate provided by law, for each mile actually and necessarily traveled from the official for  
14 whom the tax was collected.

1 **BILL HISTORY**

2 1/16/99 First read in Senate and referred to Taxation. S.J. 63

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

4 1/27/99 Taxation Do Pass, Passed, AYES 9, NAYS 0. S.J. 209

5 1/28/99 Senate Do Pass, Passed, AYES 29, NAYS 4. S.J. 242

6 1/29/99 First read in House and referred to Taxation. H.J. 272

7 2/23/99 Scheduled for Committee hearing on this date.

8 2/23/99 Taxation Do Pass Amended, Passed, AYES 11, NAYS 2. H.J. 696

# 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

400C0619

## SENATE ENGROSSED NO. **SB110** - 2/2/99

Introduced by: Senator Paisley and Representative Koskan

1 FOR AN ACT ENTITLED, An Act to revise certain provisions concerning the electronic filing  
2 of tax returns and tax payments.

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

4 Section 1. That § 10-59-32 be amended to read as follows:

5 10-59-32. The secretary may authorize any person required to file returns or reports and  
6 remit taxes or fees under the chapters set forth in § 10-59-1 to remit the taxes or fees by  
7 electronic transmission. ~~For persons~~ Any person required to file returns and remit taxes on a  
8 monthly basis ~~and who remit~~ remit taxes by electronic transmission, as authorized by the  
9 secretary, shall file returns ~~shall be filed separately from the electronic transfer of remittances,~~  
10 ~~and such returns shall be filed~~ by electronic means on or before the ~~last~~ twenty-third day of the  
11 month following each monthly period. Remittances transmitted electronically shall be made on  
12 or before the second to the last day of the month following each monthly period ~~and~~.  
13 Remittances are considered to have been made on the date that the remittance is credited to the  
14 bank account designated by the treasurer of the State of South Dakota. For purposes of making  
15 any electronic transfers of remittances provided for in this title, the last day and the second to  
16 the last day of the month shall mean the last day and the second to the last day of the month  
17 which ~~is~~ are not a Saturday or Sunday or a state or federal holiday.

1 Section 2. That § 10-45-27 be amended to read as follows:

2 10-45-27. Any person who is the holder of a sales tax permit or is a retailer whose receipts  
3 are subject to sales tax in this state during the periods specified by this section shall make a return  
4 and remittance to the Department of Revenue on forms prescribed and furnished by the  
5 department in the following manner:

6 (1) Any person whose tax liability is one thousand dollars or more annually, shall file the  
7 return and remit the tax on or before the twentieth day of the month following each  
8 monthly period;

9 (2) Any person whose tax liability is less than one thousand dollars annually, shall file the  
10 return and remit the tax on or before the last day of the month following each  
11 two-month period;

12 (3) Any person whose tax liability is one thousand dollars or more annually and who  
13 remits the tax by electronic transfer to the state, shall file the return by electronic  
14 means on or before the twenty-third day of the month following each monthly period  
15 and remit the tax on or before the second to the last day of the month following each  
16 monthly period.

17 The secretary of revenue may grant an extension of not more than five days for filing a return  
18 and remittance.

19 Unless an extension is granted, penalty or interest under § 10-59-6 shall be paid if a return  
20 or remittance is not made on time.

21 Section 3. That § 10-46A-1.6 be amended to read as follows:

22 10-46A-1.6. Any person who is the holder of a contractor's excise tax license or is a  
23 contractor whose receipts are subject to contractor's excise tax in this state during the periods  
24 specified by this section shall make a return and remittance to the Department of Revenue on  
25 forms prescribed and furnished by the department in the following manner:

- 1 (1) Any person whose tax liability is one thousand dollars or more annually, shall file the  
2 return and remit the tax on or before the twentieth day of the month following each  
3 monthly period;
- 4 (2) Any person whose tax liability is less than one thousand dollars annually, shall file the  
5 return and remit the tax on or before the last day of the month following each  
6 two-month period;
- 7 (3) Any person whose tax liability is one thousand dollars or more annually and who  
8 remits the tax by electronic transfer to the state, shall file the return by electronic  
9 means on or before the twenty-third day of the month following each monthly period  
10 and remit the tax on or before the second to the last day of the month following each  
11 monthly period.

12 The secretary of revenue may grant an extension of not more than five days for filing a return  
13 and remittance. Unless an extension is granted, the person with the tax liability shall pay the  
14 penalty or interest as provided by § 10-59-6 if a return or remittance is not made on time.

15 Section 4. That § 10-46B-1.4 be amended to read as follows:

16 10-46B-1.4. Any person who is the holder of a contractor's excise tax license or is a  
17 contractor whose receipts are subject to contractor's excise tax in this state during the periods  
18 specified by this section shall make a return and remittance to the Department of Revenue on  
19 forms prescribed and furnished by the department in the following manner:

- 20 (1) Any person whose tax liability is one thousand dollars or more annually, shall file the  
21 return and remit the tax on or before the twentieth day of the month following each  
22 monthly period;
- 23 (2) Any person whose tax liability is less than one thousand dollars annually, shall file the  
24 return and remit the tax on or before the last day of the month following each  
25 two-month period;

1       (3) Any person whose tax liability is one thousand dollars or more annually and who  
2       remits the tax by electronic transfer to the state, shall file the return by electronic  
3       means on or before the twenty-third day of the month following each monthly period  
4       and remit the tax on or before the second to the last day of the month following each  
5       monthly period.

6       The secretary of revenue may grant an extension of not more than five days for filing a return  
7       and remittance. Unless an extension is granted, the person with the tax liability shall pay the  
8       penalty or interest as provided by § 10-59-6 if a return or remittance is not made on time.

9       Section 5. That § 10-59-33 be amended to read as follows:

10       10-59-33. Any return, report, or remittance which is required to be filed under the taxes  
11       specified in § 10-59-1, ~~shall be considered~~ is timely filed if mailed, postage prepaid, on or before  
12       the due date of the reporting period, and is received by the department. If the due date falls on  
13       a Sunday, or a holiday enumerated in §§ 1-5-1 and 1-5-1.1, the return ~~shall be considered~~ is  
14       timely filed if mailed, postage prepaid, on the next succeeding day which is not a Saturday,  
15       Sunday, or holiday. A United States Postal Service postmark ~~shall be~~ is evidence of the date of  
16       mailing for the purpose of timely filing of returns, reports, or remittances. The provisions of this  
17       section do not apply to a return filed by electronic means.

18       Section 6. The effective date of this Act is October 1, 1999.

1 **BILL HISTORY**

2 1/22/99 First read in Senate and referred to Taxation. S.J. 162

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

4 1/27/99 Taxation Do Pass, Passed, AYES 6, NAYS 3. S.J. 209

5 1/28/99 Senate Deferred to another day. S.J. 243

6 1/29/99 Motion to Amend, Passed. S.J. 260

7 1/29/99 Senate Deferred to another day. S.J. 260

8 2/1/99 Senate Do Pass, Passed, AYES 31, NAYS 2. S.J. 283

# State of South Dakota

SEVENTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 1999

491C0496

SENATE TAXATION COMMITTEE  
ENGROSSED NO. **SB111** - 1/28/99

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

Introduced by: Senators Paisley and Everist and Representatives Koskan, Diedrich (Larry), and Wilson

1 FOR AN ACT ENTITLED, An Act to establish certain provisions regarding the taxation of the  
2 gross receipts of a professional employer organization.

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

4 Section 1. That chapter 10-45 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 For the purposes of chapter 10-45, gross receipts of a professional employer organization  
7 includes only those amounts received as administrative fees from a client company, whether on  
8 a fee-for-service basis or as a percentage of total receipts from the client company. The gross  
9 receipts do not include any other amount paid by the client company to the professional employer  
10 organization for the benefit of any employee, including wages, salaries, payroll taxes, payroll  
11 deductions, workers compensation costs, insurance premiums, welfare benefits, and retirement  
12 benefits.

13 Section 2. That chapter 10-45 be amended by adding thereto a NEW SECTION to read as  
14 follows:

15 For the purposes of section 1 of this Act, the term, professional employer organization,

1 means a firm which:

- 2 (1) Creates a co-employer relationship with the employees of a client company by
- 3 assuming responsibility for payroll, benefits, and other human resources functions;
- 4 (2) Covers at least seventy-five percent of the client company's full-time or full-time
- 5 equivalent employees; and
- 6 (3) Maintains separate books and records of account for each client company.

7 Section 3. That chapter 10-45 be amended by adding thereto a NEW SECTION to read as  
8 follows:

9 The provisions of this Act do not apply to the providing of temporary help services or to any  
10 other arrangement whereby a firm temporarily assigns employees of the firm to support or  
11 supplement a client company's regular work force in special situations such as employee  
12 absences, temporary skill shortages, seasonal workloads and special assignments, or projects.

1 **BILL HISTORY**

2 1/22/99 First read in Senate and referred to Taxation. S.J. 162

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

4 1/27/99 Taxation Do Pass Amended, Passed, AYES 9, NAYS 0. S.J. 209

# State of South Dakota

SEVENTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 1999

725C0625

## SENATE EDUCATION COMMITTEE ENGROSSED NO. **SB127** - 1/29/99

Introduced by: Senators Everist and Lawler and Representatives Michels, Haley, Hunt, Solum,  
and Wilson

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the financial  
2 arrangements school districts may have with the Health and Educational Facilities Authority.

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

4 Section 1. That § 13-13-39 be amended to read as follows:

5 13-13-39. The ~~Division of Education~~ Department of Education and Cultural Affairs shall  
6 apportion the foundation program funds to each eligible school district and shall prepare such  
7 a list of apportionments in triplicate. One copy shall be filed with the state auditor as a voucher,  
8 one copy to each school district, and one copy shall be retained in the files of the ~~division~~  
9 department.

10 The state auditor shall issue the warrant to each school district when the apportionment  
11 voucher is presented for the total amount of the foundation program funds each school district  
12 is to receive, subject to any reduction necessitated by the issuance of a warrant to the health and  
13 educational facilities authority as provided below.

14 If the ~~Division of Education~~ Department of Education and Cultural Affairs receives written  
15 notice from the Health and Educational Facilities Authority of a pledge of foundation program  
16 funds or other amounts under Title 13 by a school district pursuant to a lease, resolution,

1 certificate, or other arrangement ~~under any lease~~ with the authority or any ~~note~~ bond, certificate,  
2 note, or other obligation issued to or in connection with a program sponsored by the Health and  
3 Educational Facilities Authority for school districts in anticipation of funds under Title 13, the  
4 ~~Division of Education~~ Department of Education and Cultural Affairs shall deduct from amounts  
5 otherwise due to a school district for the current month and the next two succeeding months  
6 under the apportionment of foundation program funds or other amounts under Title 13 an  
7 amount sufficient to pay rentals, bonds, notes, certificates, or other amounts then due but unpaid  
8 and ~~other amounts pledged to pay any promissory notes~~ the amount so deducted shall be paid  
9 to the authority or any financial institution designated by the authority acting as a fiduciary in  
10 connection therewith, all as specified by the authority. A record of the amount so pledged as  
11 security or otherwise payable to the authority shall be filed with the state auditor.

12 The state auditor shall issue a warrant to the authority for the deducted amount specified by  
13 the Health and Educational Facilities Authority as above provided. No pledge by a school district  
14 of foundation program funds or other amounts under Title 13 for any other purpose may be  
15 permitted and if made is voidable at the election of the Health and Educational Facilities  
16 Authority.

17 Section 2. That § 13-13-74 be amended to read as follows:

18 13-13-74. ~~Payment~~ Except as provided in § 13-13-39, payment from funds provided in aid  
19 of the public schools in any school fiscal year shall be made in twelve monthly installments on  
20 or about the thirtieth of each month. For the period July first to December thirty-first, inclusive,  
21 the total of the six payments shall be one-half of local need of current school fiscal year less local  
22 effort for the period July first to December thirty-first, inclusive. For the period January first to  
23 June thirtieth, inclusive, the total of the six payments shall be one-half of local need of current  
24 school fiscal year less local effort for the period January first to June thirtieth, inclusive.

25 Section 3. That § 13-16-7 be amended to read as follows:

1 13-16-7. The school board of any school district of this state may at its discretion authorize  
2 an annual levy of a tax not to exceed three dollars per thousand dollars of taxable valuation on  
3 the taxable valuation of the district for the capital outlay fund for assets as defined by § 13-16-6  
4 or for its obligations under a resolution, lease-purchase agreement, capital outlay certificate, or  
5 other arrangement with the Health and Educational Facilities Authority. Taxes collected pursuant  
6 to such levy may be irrevocably pledged by the school board to the payment of principal of and  
7 interest on installment purchase contracts or capital outlay certificates entered into or issued  
8 pursuant to § 13-16-6 or 13-16-6.2 or lease-purchase agreements or other arrangement with the  
9 Health and Educational Facilities Authority and, so long as any capital outlay certificates are  
10 outstanding ~~or~~, installment agreement payments, lease-purchase agreements, or other  
11 arrangements are unpaid, the school board of any district may be compelled by mandamus or  
12 other appropriate remedy to levy an annual tax sufficient to pay principal and interest thereon,  
13 but not to exceed the three dollars per thousand dollars of taxable valuation in any year  
14 authorized to be levied hereby.

15 Section 4. That § 13-16-29 be amended to read as follows:

16 13-16-29. There is created a separate trust fund designated the school district lease  
17 repayment fund consisting of all revenues with respect to school district lease, resolution,  
18 certificate, or other arrangement, or any bond, note, or certificate issued to or in connection with  
19 a program sponsored by the Health and Educational Facilities Authority for school districts and  
20 entered into under §§ 13-13-39, 13-16-6.4, 13-16-7 and §§ 13-19-27 to 13-19-29, inclusive. The  
21 Health and Educational Facilities Authority may pledge revenues received or to be received by  
22 the fund to secure bonds, notes or other obligations issued under §§ 13-13-39, 13-16-6.4,  
23 13-16-7 and §§ 13-19-27 to 13-19-29, inclusive. The authority may create sub-funds or accounts  
24 within the repayment fund created under this section as the authority considers necessary.

25 Section 5. That § 13-19-27 be amended to read as follows:

1       13-19-27. Any school ~~board~~ district may enter into lease-purchase agreements ~~with or other~~  
2 financing arrangement with or issue capital outlay certificates to the Health and Educational  
3 Facilities Authority for capital improvements, the acquisition of equipment, or improvement of  
4 school facilities that the school board considers necessary or appropriate or as a result of a  
5 consolidation or proposed consolidation of one school district with another school district. All  
6 such leases, capital outlay certificates, or other arrangements shall be in accordance with the  
7 provisions of §§ 13-8-39, 13-20-1, and 13-24-10.

8       Section 6. That § 13-19-28 be amended to read as follows:

9       13-19-28. The terms of the lease-purchase agreement, resolution, certificate, or other  
10 arrangement, or any bond, note, or certificate issued to or in connection with a program  
11 sponsored by the Health and Educational Facilities Authority for school districts and shall  
12 contain such terms as the health and educational facilities authority considers necessary, including  
13 without limitation, terms of default, remedies, representations and covenants of the ~~lessee~~ school  
14 district.

15       Section 7. That § 13-19-29 be amended to read as follows:

16       13-19-29. If capital outlay certificates are issued to, or a lease-purchase agreement, or other  
17 financing arrangement is entered into with the Health and Educational Facilities Authority as  
18 authorized by §§ 13-13-39, 13-16-6.4, 13-16-7, 13-16-29, 13-19-27, and 13-19-28 ~~has been~~  
19 ~~entered into or, and~~ a school district has pledged foundation program funds or other state aid  
20 provided under Title 13 to secure its obligations under or pursuant to a lease, resolution,  
21 certificate, or other arrangement with the Health and Educational Facilities Authority and there  
22 are amounts due but not yet paid by a school district, no cash receipts from the collection of any  
23 taxes, from foundation program aid or state aid under chapter 13-13 or from the collection of  
24 tuition charges may be expended for any purpose except paying the amounts due under the lease,  
25 resolution, certificate, or other arrangement as specified by written notice by or on behalf of the

1 Health and Educational Facilities Authority. In the event of a failure to pay amounts due the  
2 Health and Educational Facilities Authority, moneys from foundation program aid or state aid  
3 under Title 13 shall first be applied to pay the amounts which are due but not yet paid to the  
4 authority, any trustee acting as a fiduciary on behalf of any holders of bonds, notes, or other  
5 certificates in connection with any such arrangement and any such holders. If this application is  
6 insufficient, cash receipts from the collection of any pledged taxes and tuition charges shall be  
7 applied to pay the amounts which are due but not yet paid to the authority, any such trustee, and  
8 any such holders.

9 Section 8. That § 13-19-30 be amended to read as follows:

10 13-19-30. Any school district may enter into an agreement with the Health and Educational  
11 Facilities Authority and any financial institution acting as trustee or paying agent for bonds,  
12 leases, certificates, or other obligations ~~of the authority,~~ issued for the purpose of implementing  
13 § 13-19-29. The agreement may contain such provisions as the authority deems necessary and  
14 may provide that the financial institution may act as trustee for the benefit of and on behalf of the  
15 authority and be held accountable as the trustee of an express trust for the application and  
16 disposition of the foundation program aid and state aid under Title 13 and other funds or  
17 amounts pledged by any school district, including the income and proceeds therefrom, solely for  
18 the uses and purposes as provided in the agreement. A copy of the agreement and any revisions  
19 or supplements to it, shall be filed with the secretary of the Department of Education and  
20 Cultural Affairs to perfect the lien and security interest of the authority in the foundation  
21 program aid and state aid under Title 13 and other funds or amounts pledged by any school  
22 district. No filing, recording, possession, or other action under the uniform commercial code or  
23 any other law of this state may be required to perfect the lien and security interest of the  
24 authority. The lien and security interest of the authority is deemed perfected, and the trust for  
25 the benefit of the authority so created is binding ~~on and after~~ as of the date when the school

1 district makes such pledge, notwithstanding the time of the filing with the secretary of the  
2 Department of Education and Cultural Affairs, against all parties having prior ~~unperfected~~ or  
3 subsequent liens, security interests, or claims of any kind in tort, in contract or otherwise.

1 **BILL HISTORY**

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

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

4 1/28/99 Education Do Pass Amended, Passed, AYES 6, NAYS 0. S.J. 227

# State of South Dakota

SEVENTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 1999

653C0695

## HOUSE JUDICIARY COMMITTEE ENGROSSED NO. **SB162** - 2/23/99

Introduced by: Senators Everist, Halverson, and Rounds and Representatives Michels, Cutler,  
and Hunt

1 FOR AN ACT ENTITLED, An Act to increase the penalty for second convictions for criminal  
2 pedophilia.

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

4 Section 1. That § 22-22-30.1 be amended to read as follows:

5 22-22-30.1. Criminal pedophilia is any act of sexual penetration accomplished with a victim  
6 less than thirteen years of age by any person twenty-six years of age or older under any  
7 circumstances not constituting incest as defined in subdivision 22-22-1(6). Criminal pedophilia  
8 is a Class 1 felony. If any person is convicted of criminal pedophilia, the court shall impose a  
9 minimum sentence of twenty-five years for a first offense. If any person is convicted for a second  
10 offense, the court shall impose a sentence of life without parole.

1 **BILL HISTORY**

2 1/27/99 First read in Senate and referred to Judiciary. S.J. 213

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

5 2/3/99 Senate Do Pass Amended, Passed, AYES 34, NAYS 1. S.J. 320

6 2/4/99 First read in House and referred to Judiciary. H.J. 384

7 2/19/99 Scheduled for Committee hearing on this date.

8 2/22/99 Scheduled for Committee hearing on this date.

9 2/22/99 Judiciary Do Pass Amended, Passed, AYES 10, NAYS 2. H.J. 659

# 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

753C0749

## SENATE TAXATION COMMITTEE ENGROSSED NO. **SB177** - 2/11/99

Introduced by: Senator Munson (David) and Representative Broderick

1 FOR AN ACT ENTITLED, An Act to require the Department of Revenue to conduct a pilot  
2 program granting limited access to certain secured parties concerning liens and to provide  
3 rule-making authority to implement the pilot program.

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

5 Section 1. The secretary of revenue shall conduct a pilot program granting a secured party  
6 access to the state's computer system which allows the secured party to directly note and cancel  
7 the secured party's liens as defined in chapters 32-3 and 32-3A on the state's computer system.  
8 The secretary shall determine the procedure and the parameters on how the pilot program shall  
9 be implemented and select the banks to participate in the pilot program. The secretary may  
10 promulgate rules pursuant to chapter 1-26 concerning the procedure for providing a secured  
11 party access to, adequate security for, and confidentiality of any public records related to the  
12 secured party's liens listed on the state's computer system.

13 Section 2. The provisions of section 1 of this Act shall expire on July 1, 2002.

1 **BILL HISTORY**

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

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

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

5 2/10/99 Taxation Do Pass Amended, Passed, AYES 8, NAYS 0. S.J. 417

# State of South Dakota

SEVENTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 1999

802C0296

## HOUSE EDUCATION COMMITTEE ENGROSSED NO. **SB193** - 2/24/99

Introduced by: Senators Hainje and Paisley and Representatives Brown (Richard), Peterson,  
and Richter

1 FOR AN ACT ENTITLED, An Act to revise the school term.

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

3 Section 1. That § 13-26-1 be amended to read as follows:

4 13-26-1. The school fiscal year shall begin July first and end June thirtieth. ~~A school day~~ The  
5 length of days shall be ~~at least five and one-half hours, exclusive of intermissions, and at least~~  
6 ~~two and three-fourths hours shall count as a half day~~ set by each local school board. A school  
7 term for grades four through twelve shall consist of a minimum of nine hundred sixty-two and  
8 one-half hours, exclusive of intermission. The time specified as a "school day" shall not apply  
9 below grade four. An "intermission" is the time when pupils are at recess or lunch.

10 Section 2. That § 13-26-2 be amended to read as follows:

11 13-26-2. The school board or governing body shall operate grades one through twelve in its  
12 schools for at least ~~a nine-month regular term~~ nine hundred sixty-two and one-half hours,  
13 exclusive of intermissions, in any one school year. The regular school term may be conducted  
14 on a year-round basis, ~~but for grades one through twelve shall consist of school actually in~~  
15 ~~session for at least one hundred seventy-five days~~ and shall begin on a date established by the  
16 school board. The State Board of Education shall promulgate rules pursuant to chapter 1-26

1 governing the operation and scheduling of year-round schools. ~~The rules may allow deviations~~  
2 ~~from the one hundred seventy-five day requirement in this section and from the five and one-half~~  
3 ~~hour per day requirement in § 13-26-1 if the total school term hours requirement in § 13-26-2.1~~  
4 ~~is met.~~ The local school board or governing body may establish the school term for kindergarten  
5 programs. Any school board or governing body may release graduating high school seniors from  
6 school before the end of the regular term if the release is for no more than three days. Make up  
7 days for school closing because of weather, disease or emergency need not exceed ten days.  
8 Graduating seniors are excused from make up days if the make up days occur after the students  
9 have graduated or after graduation exercises have been held. If classes have been convened and  
10 then are dismissed because of inclement weather, that day constitutes a day in session equal to  
11 the number of hours planned for that day as established in the local school district calendar for  
12 the year.

13 School boards are encouraged to provide days within the regular school term for curriculum  
14 and staff development which shall be in addition to the ~~one hundred seventy-five days~~ nine  
15 hundred sixty-two and one-half hours required in this section. Each school board shall determine  
16 the appropriate number of days for this activity and how best to use the time based on local  
17 needs for program development, increased parent participation, student contact, teachers'  
18 preparation, or other needs of the schools in the district. School shall be in session only when  
19 classes are held and as provided in §§ 13-26-4 and 13-26-4.1. A school board may operate a  
20 special term during the summer months.

21 Section 3. That § 13-26-2.1 be amended to read as follows:

22 13-26-2.1. Notwithstanding §§ 13-26-1 and 13-26-2, each local school board may establish  
23 the length of a school day and the number of school days in a school week, ~~provided.~~ However,  
24 the number of school hours in a school term for grades four through twelve may not be less than  
25 nine hundred sixty-two and one-half hours, exclusive of intermission. ~~A plan to establish a school~~

- 1 ~~term pursuant to this section must first be approved by the South Dakota Board of Education.~~
- 2 The state board may adopt rules, pursuant to chapter 1-26, regulating the approval review and
- 3 revision of local district plans.

1 **BILL HISTORY**

2 1/28/99 First read in Senate and referred to Education. S.J. 233

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 Education Do Pass, Passed, AYES 7, NAYS 0. S.J. 332

6 2/4/99 Education Place on Consent Calendar.

7 2/5/99 Senate Deferred to another day. S.J. 358

8 2/8/99 Senate Do Pass, Passed, AYES 33, NAYS 1. S.J. 378

9 2/9/99 First read in House and referred to Education. H.J. 449

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

11 2/23/99 Scheduled for Committee hearing on this date.

12 2/23/99 Education Do Pass Amended, Passed, AYES 7, NAYS 5. H.J. 698

# State of South Dakota

SEVENTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 1999

419C0698

## HOUSE STATE AFFAIRS COMMITTEE ENGROSSED NO. **SB200** - 2/22/99

Introduced by: Senators Rounds and Brosz and Representatives Brown (Richard) and Hennies

1 FOR AN ACT ENTITLED, An Act to increase the penalty for possessing certain drugs near  
2 schools and certain other youth-oriented facilities.

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

4 Section 1. That § 22-42-19 be amended to read as follows:

5 22-42-19. Any person who commits a violation of § 22-42-2, 22-42-3, ~~or 22-42-4, 22-42-5,~~  
6 ~~or 22-42-6~~ or a felony violation of § 22-42-7, if such activity has taken place:

7 (1) In, on, or within one thousand feet of real property comprising a public or private  
8 elementary or secondary school or a playground; or

9 (2) In, on, or within five hundred feet of real property comprising a public or private  
10 youth center, public swimming pool, or video arcade facility;

11 is guilty of a Class 4 felony. The sentence imposed for a conviction under this section carries a  
12 minimum sentence of imprisonment in the state penitentiary of five years. Any sentence imposed  
13 under this section shall be consecutive to any other sentence imposed for the principal felony.

14 The court may not place on probation, suspend the execution of the sentence, or suspend the  
15 imposition of the sentence of any person convicted of a violation of this section. However, the  
16 sentencing court may impose a sentence other than that specified in this section if the court finds

1 that mitigating circumstances exist which require a departure from the mandatory sentence  
2 provided for in this section. The court's finding of mitigating circumstances allowed by this  
3 section and the factual basis relied upon by the court shall be in writing.

4 It is not a defense to the provisions of this section that the defendant did not know the  
5 distance involved. It is not a defense to the provisions of this section that school was not in  
6 session.

1 **BILL HISTORY**

2 1/28/99 First read in Senate and referred to Judiciary. S.J. 234

3 2/1/99 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 5, NAYS 1. S.J. 366

6 2/10/99 Senate Do Pass Amended, Passed, AYES 31, NAYS 2. S.J. 434

7 2/11/99 First read in House and referred to State Affairs. H.J. 491

8 2/19/99 Scheduled for Committee hearing on this date.

9 2/19/99 State Affairs Do Pass Amended, Passed, AYES 7, NAYS 6. H.J. 634

# State of South Dakota

SEVENTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 1999

880C0863

## HOUSE JUDICIARY COMMITTEE ENGROSSED NO. **SB228** - 2/23/99

Introduced by: Senator Vitter

1 FOR AN ACT ENTITLED, An Act to increase the penalty for certain assaults in jails.

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

3 Section 1. That § 22-18-29 be amended to read as follows:

4 22-18-29. Any person confined in a county or municipal jail ~~or in a juvenile detention facility~~  
5 who intentionally throws, smears, or otherwise causes blood, emesis, mucus, semen, excrement,  
6 or human waste to come in contact with a county or municipal jail ~~or juvenile detention facility~~  
7 employee, or visitor, or volunteer authorized by the county or municipal jail ~~or juvenile detention~~  
8 ~~facility~~, or person under contract assigned to the county or municipal jail ~~or juvenile detention~~  
9 ~~facility~~ is guilty of a ~~Class 2 misdemeanor~~ Class 1 misdemeanor.

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

12 Any juvenile confined in a juvenile detention facility who intentionally throws, smears, or  
13 otherwise causes blood, emesis, mucus, semen, excrement, or human waste to come in contact  
14 with a juvenile detention facility employee, or visitor, or volunteer authorized by the juvenile  
15 detention facility, or person under contract assigned to the juvenile detention facility is guilty of  
16 a Class 2 misdemeanor.

1 **BILL HISTORY**

2 2/1/99 First read in Senate and referred to Judiciary. S.J. 277

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

4 2/5/99 Judiciary Do Pass Amended, Passed, AYES 7, NAYS 0. S.J. 365

5 2/10/99 Senate Do Pass Amended, Passed, AYES 31, NAYS 2. S.J. 435

6 2/11/99 First read in House and referred to Judiciary. H.J. 491

7 2/19/99 Scheduled for Committee hearing on this date.

8 2/19/99 Judiciary Deferred to another day.

9 2/22/99 Scheduled for Committee hearing on this date.

10 2/22/99 Judiciary Do Pass Amended, Passed, AYES 8, NAYS 4. H.J. 659

# State of South Dakota

SEVENTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 1999

750C0861

## SENATE ENGROSSED NO. **SB243** - 2/18/99

Introduced by: Senators Benson, Drake, Duxbury, Hainje, and Lawler and Representatives  
Duenwald, Derby, and Juhnke

1 FOR AN ACT ENTITLED, An Act to provide for the issuance of specialty license plates and  
2 organization decals.

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

4 Section 1. That chapter 32-5 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 An owner of a motor vehicle, who is a resident of this state, who has a valid South Dakota  
7 driver's license or South Dakota identification number as assigned by the Department of  
8 Commerce and Regulation, may upon request receive a set of specialty license plates that allow  
9 for the placement of an organization decal on the plates. The specialty plates are in lieu of regular  
10 license plates issued by the county treasurer and may only be used on noncommercial vehicles  
11 that are licensed according to §§ 32-5-6 and 32-5-6.3. If the specialty plates are requested at the  
12 time of initial application for title and registration of the vehicle, no additional fees are charged  
13 for the plates above the costs involved in registering the vehicle. If the specialty plates are  
14 requested later or if the vehicle has current South Dakota plates, the owner shall surrender the  
15 current plates and pay a ten dollar fee for the specialty plates. This fee is in addition to any  
16 applicable costs involved in the registration of the vehicle.

1 Section 2. That chapter 32-5 be amended by adding thereto a NEW SECTION to read as  
2 follows:

3 To qualify for an organizational decal, an organization shall be a nonprofit corporation, or  
4 a group of nonprofit corporations with a common purpose, on file with the secretary of state's  
5 office and shall have a minimum of two hundred members and shall meet the following  
6 requirements:

- 7 (1) The primary activity or interest of the organization or group of organizations serves  
8 the community, contributes to the welfare of others, and is not offensive or  
9 discriminatory in its purpose, nature, activity, or name;
- 10 (2) The name and purpose of the organization or group of organizations does not  
11 promote any specific product or brand name that is provided for sale; and
- 12 (3) The purpose of the organization or group of organizations does not promote a  
13 specific religion, faith, or anti-religious belief.

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

16 At the time of application, the organization or group of organizations shall furnish the  
17 department with the following:

- 18 (1) A copy of its articles of incorporation for each organization;
- 19 (2) A copy of its charter or by-laws for each organization;
- 20 (3) Any Internal Revenue Service rulings of each organization's nonprofit tax exemptions  
21 status;
- 22 (4) A completed decal design with the organizational logo and the organizational name,  
23 or in the case of a group of organizations, a decal design which clearly depicts the  
24 common purpose or theme of the group; and
- 25 (5) A completed application for organization decals on a form provided by the

1 department.

2 Section 4. That chapter 32-5 be amended by adding thereto a NEW SECTION to read as  
3 follows:

4 Upon approval of an application for organization decals and approval of the design of the  
5 organization decal, the department shall furnish the decals to the organization. The organization  
6 shall purchase at minimum one hundred sets of the organization decals. The organization shall  
7 reimburse the department for the cost of the decals, plus a fifteen percent administrative fee. The  
8 organization shall establish criteria for an applicant to qualify for the organization decals and the  
9 fee to be charged for the decals. The organization is responsible for the administration and  
10 issuance of the decals. Decals other than those authorized and issued by the department are not  
11 permitted on license plates. Misuse of the decals or use of unauthorized decals is a Class 2  
12 misdemeanor.

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

15 Upon the sale or transfer of a vehicle bearing specialty license plates that display an  
16 organization decal, the plates shall remain with the owner and upon approval by the department  
17 may be transferred to another vehicle. Anyone receiving organization license plates shall at the  
18 time of obtaining the specialty plates purchase from the county treasurer a temporary permit. The  
19 permit is valid for fifteen days and costs fifteen dollars. The permit shall be vehicle specific and  
20 shall be affixed to the vehicle by the seller at the time of sale or transfer of the vehicle. The new  
21 owner of the vehicle may use the permit in the interim of registering the vehicle. The permit may  
22 not be used for any other purpose than stated. Misuse of the temporary permit is a Class 2  
23 misdemeanor.

1 **BILL HISTORY**

2 2/1/99 First read in Senate and referred to Transportation. S.J. 279

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

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

5 2/11/99 Transportation Do Pass Amended, Passed, AYES 6, NAYS 0. S.J. 445

6 2/16/99 Senate Deferred to another day. S.J. 506

7 2/17/99 Motion to Amend, Passed. S.J. 528

8 2/17/99 Senate Do Pass Amended, Passed, AYES 33, NAYS 0. S.J. 528