

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

194C0694

SENATE EDUCATION COMMITTEE
ENGROSSED NO. **HB1229** - 2/26/99

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 may 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 Education. 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

12 2/22/99 House of Representatives Do Pass Amended, Passed, AYES 63, NAYS 7. H.J. 667

13 2/22/99 First read in Senate and referred to Education. S.J. 632

14 2/25/99 Scheduled for Committee hearing on this date.

15 2/25/99 Education Do Pass Amended, Passed, AYES 6, NAYS 0. S.J. 675

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

991C0850

SENATE JUDICIARY COMMITTEE ENGROSSED NO.

HB1282 - 2/25/99

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

Introduced by: Representative Michels and Senator Everist

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

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

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

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

1 ~~(1) Such information may only be used to impeach the testimony of such witness; and~~
2 ~~(2) Such witness may not testify unless the party calling the witness has notified all~~
3 ~~adverse parties to the action at least thirty days before trial of the person's intention~~
4 ~~to use such witness who has participated in deliberations under that section involving~~
5 ~~the subject matter of the action, may testify as an expert witness for any party in any~~
6 ~~action for personal injury or wrongful death, the subject matter of which is the care~~
7 ~~and treatment of the patient. Notwithstanding membership on a committee,~~
8 ~~department, section, board of directors, or group covered by § 36-4-26.1, a health~~
9 ~~care professional observing or participating in the patient's treatment and care may~~
10 ~~testify as a fact or expert witness concerning that treatment and care, but may not be~~
11 ~~required to testify as to anything protected by § 36-4-26.1.~~

1 **BILL HISTORY**

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

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

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

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

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

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

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

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

10 2/19/99 House of Representatives Do Pass Amended, Passed, AYES 57, NAYS 12. H.J. 651

11 2/22/99 First read in Senate and referred to Judiciary. S.J. 620

12 2/24/99 Scheduled for Committee hearing on this date.

13 2/24/99 Judiciary Do Pass Amended, Passed, AYES 6, NAYS 0. S.J. 652

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

400C0355

HOUSE STATE AFFAIRS COMMITTEE

ENGROSSED NO. **SB28** - 3/2/99

Introduced by: The Committee on Judiciary at the request of the Attorney General

1 FOR AN ACT ENTITLED, An Act to establish escrow funds to pay claims brought against
2 tobacco product manufacturers.

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

4 Section 1. The Legislature finds the following:

5 (1) Cigarette smoking presents serious public health concerns to the State of South
6 Dakota and to the citizens of the state. The surgeon general of the United States has
7 determined that smoking causes lung cancer, heart disease, and other serious diseases,
8 and that there are hundreds of thousands of tobacco-related deaths in the United
9 States each year. These diseases most often do not appear until many years after the
10 person in question begins smoking;

11 (2) Cigarette smoking also presents serious financial concerns for the state. Under certain
12 health care programs, the state may have a legal obligation to provide medical
13 assistance to eligible persons for health conditions associated with cigarette smoking,
14 and those persons may have a legal entitlement to receive such medical assistance;

15 (3) Under these programs, the state pays millions of dollars each year to provide medical
16 assistance for these persons for health conditions associated with cigarette smoking;

1 and

2 (4) On November 23, 1998, major United States tobacco product manufacturers entered
3 into a settlement agreement, entitled, Master Settlement Agreement, with the state.
4 The Master Settlement Agreement obligates these manufacturers, in return for a
5 release of past, present, and certain future claims against them as described therein,
6 to pay substantial sums to the state, tied in part to their volume of sales; to fund a
7 national foundation devoted to the interests of public health; and to make substantial
8 changes in their advertising and marketing practices and corporate culture, with the
9 intention of reducing underage smoking.

10 Section 2. In enacting this Act, it is the intention of the Legislature that:

11 (1) It is the policy of the state that financial burdens imposed on the state by cigarette
12 smoking be borne by tobacco product manufacturers rather than by the State of South
13 Dakota to the extent that such manufacturers either determine to enter into a
14 settlement with the state or are found culpable by the courts; and

15 (2) It would be contrary to this policy of the State of South Dakota if tobacco product
16 manufacturers who determine not to enter into such a settlement could use a resulting
17 cost advantage to derive large, short-term profits in the years before liability may arise
18 without ensuring that the state will have an eventual source of recovery from them if
19 they are proven to have acted culpably. It is thus in the interest of the state to require
20 that such manufacturers establish a reserve fund to guarantee a source of
21 compensation and to prevent such manufacturers from deriving large, short-term
22 profits and then becoming judgment-proof before liability may arise.

23 Section 3. Terms used in this Act mean:

24 (1) "Adjusted for inflation," increased in accordance with the formula for inflation
25 adjustment set forth in the Master Settlement Agreement;

1 (2) "Affiliate," a person who directly or indirectly owns or controls, is owned or
2 controlled by, or is under common ownership or control with, another person. Solely
3 for purposes of this definition, the terms, owns, is owned, and ownership, mean
4 ownership of an equity interest, or the equivalent thereof, of ten percent or more, and
5 the term, person, means an individual, partnership, committee, association,
6 corporation, or any other organization or group of persons;

7 (3) "Allocable share," allocable share as that term is defined in the Master Settlement
8 Agreement;

9 (4) "Master Settlement Agreement," the settlement agreement, and related documents,
10 entered into on November 23, 1998, by the State of South Dakota and major United
11 States tobacco product manufacturers which is filed as part of the court record in
12 *State of South Dakota, et al. v. Philip Morris, Inc., et al.*, Civ. No. 98-65, Sixth
13 Judicial Circuit, Hughes County;

14 (5) "Qualified escrow fund," an escrow arrangement with a federally or state-chartered
15 financial institution having no affiliation with any tobacco product manufacturer and
16 having assets of at least one billion dollars where such arrangement requires that the
17 financial institution hold the escrowed funds' principal for the benefit of releasing
18 parties and prohibits the tobacco product manufacturer placing the funds into escrow
19 from using, accessing, or directing the use of the funds' principal except as consistent
20 with section 8 of this Act;

21 (6) "Released claims," released claims as that term is defined in the Master Settlement
22 Agreement;

23 (7) "Releasing parties," releasing parties as that term is defined in the Master Settlement
24 Agreement.

25 Section 4. For the purposes of this Act, the term, cigarette, means any product that contains

1 nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or
2 contains:

3 (1) Any roll of tobacco wrapped in paper or in any substance not containing tobacco;

4 (2) Tobacco, in any form, that is functional in the product, which, because of its
5 appearance, the type of tobacco used in the filler, or its packaging and labeling, is
6 likely to be offered to, or purchased by, consumers as a cigarette;

7 (3) Any roll of tobacco wrapped in any substance containing tobacco which, because of
8 its appearance, the type of tobacco used in the filler, or its packaging and labeling, is
9 likely to be offered to, or purchased by, consumers as a cigarette described in
10 subdivision (1) of this definition.

11 The term, cigarette, includes, roll-your-own, meaning any tobacco which, because of its
12 appearance, type, packaging, or labeling is suitable for use and likely to be offered to, or
13 purchased by, consumers as tobacco for making cigarettes. For purposes of this definition,
14 0.09 ounces of roll-your-own tobacco constitutes one individual cigarette.

15 Section 5. For the purposes of this Act, the term, tobacco product manufacturer, means an
16 entity that, on or after July 1, 1999, directly, and not exclusively through any affiliate:

17 (1) Manufactures cigarettes anywhere which the manufacturer intends to be sold in the
18 United States, including cigarettes intended to be sold in the United States through
19 an importer. However, any entity that manufactures cigarettes that it intends to be
20 sold in the United States is not a tobacco product manufacturer under this subdivision
21 if the cigarettes are sold in the United States exclusively through an importer that is
22 an original participating manufacturer, as that term is defined in the Master Settlement
23 Agreement, that will be responsible for the payments under the Master Settlement
24 Agreement with respect to such cigarettes as a result of the provisions of
25 subsections II(mm) of the Master Settlement Agreement and that pays the taxes

1 specified in subsection II(z) of the Master Settlement Agreement, and if the
2 manufacturer of such cigarettes does not market or advertise such cigarettes in the
3 United States;

4 (2) Is the first purchaser anywhere for resale in the United States of cigarettes
5 manufactured anywhere that the manufacturer does not intend to be sold in the United
6 States; or

7 (3) Becomes a successor of an entity described in subdivision (1) or (2).

8 The term does not include an affiliate of a tobacco product manufacturer unless such affiliate
9 itself falls within subdivision (1), (2), or (3).

10 Section 6. For the purposes of this Act, the term, units sold, means the number of individual
11 cigarettes sold in the state by the applicable tobacco product manufacturer, whether directly or
12 through a distributor, retailer, or similar intermediary or intermediaries, during the year in
13 question, as measured by excise taxes collected by the state on packs bearing the excise tax
14 stamp or imprint of the state, or on roll-your-own tobacco. The secretary of revenue shall
15 promulgate, pursuant to chapter 1-26, such rules as are necessary to obtain information from any
16 licensee, licensed under the authority of the Department of Revenue, to ascertain the amount of
17 state excise tax paid on the cigarettes of such tobacco product manufacturer for each year. The
18 Department of Revenue may provide information obtained pursuant to this section as is
19 necessary for a tobacco product manufacturer to compute its escrow payment under section 7
20 of this Act.

21 Section 7. Any tobacco product manufacturer selling cigarettes to consumers within the
22 state, on or after July 1, 1999, whether directly or through a distributor, retailer, or similar
23 intermediary or intermediaries, shall do one of the following:

24 (1) Become a participating manufacturer, as that term is defined in section II(jj) of the
25 Master Settlement Agreement, and generally perform its financial obligations under

1 the Master Settlement Agreement; or

2 (2) Place into a qualified escrow fund by April fifteenth of the year following the year in
3 question the following amounts, as such amounts are adjusted for inflation:

4 (a) For 1999: \$.0094241 per unit sold after the date of enactment of this Act;

5 (b) For 2000: \$.0104712 per unit sold;

6 (c) For each of 2001 and 2002: \$.0136125 per unit sold;

7 (d) For each of 2003 through 2006: \$.0167539 per unit sold;

8 (e) For each of 2007 and each year thereafter: \$.0188482 per unit sold.

9 Section 8. A tobacco product manufacturer that places funds into escrow pursuant to
10 subdivision (2) of section 7 of this Act shall receive the interest or other appreciation on such
11 funds as earned. Such funds themselves shall be released from escrow only under the following
12 circumstances:

13 (1) To pay a judgment or settlement on any released claim brought against such tobacco
14 product manufacturer by the state or any releasing party located or residing in the
15 state. Funds shall be released from escrow under this subdivision in the order in which
16 they were placed into escrow and only to the extent and at the time necessary to make
17 payments required under such judgment or settlement;

18 (2) To the extent that a tobacco product manufacturer establishes that the amount it was
19 required to place into escrow in a particular year was greater than the state's allocable
20 share of the total payments that such manufacturer would have been required to make
21 in that year under the Master Settlement Agreement had it been a participating
22 manufacturer, as such payments are determined pursuant to section IX(i)(2) of the
23 Master Settlement Agreement and before any of the adjustments or offsets described
24 in section IX(i)(3) of the Master Settlement Agreement other than the inflation
25 adjustment, the excess shall be released from escrow and revert back to such tobacco

1 product manufacturer; or

2 (3) To the extent not released from escrow under subdivision (1) or (2) of this section,
3 funds shall be released from escrow and revert back to such tobacco product
4 manufacturer twenty-five years after the date on which they were placed into escrow.

5 Section 9. Each tobacco product manufacturer that elects to place funds into escrow shall
6 annually certify its compliance with section 7 of this Act to the attorney general. The attorney
7 general may bring a civil action on behalf of the State of South Dakota against any tobacco
8 product manufacturer that fails to place into escrow the funds required. Any tobacco product
9 manufacturer that fails in any year to place into escrow the funds required by section 7 of this
10 Act shall:

11 (1) Within fifteen days place such funds into escrow as shall bring it into compliance with
12 section 7 of this Act. The court, upon a finding of a violation of section 7 of this Act,
13 may impose a civil penalty to be paid to the state general fund in an amount not to
14 exceed five percent of the amount improperly withheld from escrow per day of the
15 violation and in a total amount not to exceed one hundred percent of the original
16 amount improperly withheld from escrow;

17 (2) In the case of a knowing violation, within fifteen days place such funds into escrow
18 as shall bring it into compliance with section 7 of this Act. The court, upon a finding
19 of a knowing violation of section 7 of this Act, may impose a civil penalty to be paid
20 to the state general fund in an amount not to exceed fifteen percent of the amount
21 improperly withheld from escrow per day of the violation and in a total amount not
22 to exceed three hundred percent of the original amount improperly withheld from
23 escrow; and

24 (3) In the case of a second knowing violation, be prohibited from selling cigarettes to
25 consumers within the state, whether directly or through a distributor, retailer, or

1 similar intermediary, for a period not to exceed two years.

2 Section 10. Each failure to make an annual deposit required under section 7 of this Act

3 constitutes a separate violation.

1 **BILL HISTORY**

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

3 1/20/99 Scheduled for Committee hearing on this date.

4 1/20/99 Judiciary Do Pass Amended, Passed, AYES 7, NAYS 0. S.J. 125

5 1/22/99 Senate Do Pass Amended, Passed, AYES 33, NAYS 1. S.J. 165

6 1/25/99 First read in House and referred to State Affairs. H.J. 177

7 2/22/99 Scheduled for Committee hearing on this date.

8 2/24/99 Scheduled for Committee hearing on this date.

9 2/26/99 Scheduled for Committee hearing on this date.

10 3/1/99 Scheduled for Committee hearing on this date.

11 3/1/99 State Affairs Do Pass Amended, Passed, AYES 12, NAYS 0.

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

400C0265

HOUSE STATE AFFAIRS COMMITTEE

ENGROSSED NO. **SB59** - 3/2/99

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

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

1 FOR AN ACT ENTITLED, An Act to authorize the examination and use of commercial vehicle
2 weigh scale tickets in the enforcement of vehicle weight restrictions and to revise certain
3 provisions regarding penalties for violations of such restrictions.

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

5 Section 1. That chapter 32-22 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 The Department of Transportation shall inspect all scale tickets issued by any weigh scale
8 operator for a vehicle being used in connection with the construction, repair, or maintenance of
9 a public highway pursuant to a contract administered by the Department of Transportation for
10 compliance with the weight limitations imposed by this chapter. The Department of
11 Transportation shall report any offenders to the Department of Commerce and Regulation.

12 Section 2. That § 32-2-8.1 be amended to read as follows:

13 32-2-8.1. Arrest powers for motor carrier inspectors employed by the Division of Highway
14 Patrol are limited to violations of chapters 10-47A, 32-5, 32-9, 32-10, 32-12, 32-22, 49-28, and
15 49-28A and §§ 50-4-13 to 50-4-17, inclusive, and § 32-33-17, and the rules governing operation

1 of motor carriers. Motor carrier inspectors who have been given such limited arrest powers are
2 not considered "law enforcement officers" for the purposes of § 23-3-27.

3 Section 3. That § 32-22-56 be amended to read as follows:

4 32-22-56. In any case where the motor vehicle is absolutely overweight beyond ~~the greatest~~
5 ~~permissible compensation plate weights for a vehicle of its class~~ ten thousand pounds, the pounds
6 by which the vehicle is so overweight ~~may~~ shall be assessed at double the penalties prescribed
7 in § 32-22-55.

8 Section 4. That chapter 32-22 be amended by adding thereto a NEW SECTION to read as
9 follows:

10 Any county highway superintendent or municipal street superintendent may inspect any scale
11 ticket issued by any weight scale operator for a vehicle being used in connection with removal
12 of construction aggregate from a county-permitted gravel pit or for the construction, repair, or
13 maintenance of a public highway pursuant to a contract administered by a county, township, or
14 municipality for compliance with the weight limitations imposed by this chapter.

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

5 2/11/99 Scheduled for Committee hearing on this date.

6 2/11/99 Transportation Deferred to another day.

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

8 2/18/99 Transportation Hog Housed.

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

10 2/18/99 Transportation Do Pass Amended, Passed, AYES 4, NAYS 3. S.J. 536

11 2/19/99 Motion to Amend, Passed. S.J. 597

12 2/19/99 Motion to Amend, Passed. S.J. 597

13 2/19/99 Senate Do Pass Amended, Passed, AYES 30, NAYS 3. S.J. 597

14 2/22/99 First read in House and referred to State Affairs. H.J. 691

15 2/26/99 Scheduled for Committee hearing on this date.

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

17 3/1/99 State Affairs Do Pass Amended, Passed, AYES 9, NAYS 4.

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

364C0465

HOUSE TAXATION COMMITTEE ENGROSSED NO. **SB101** - 3/2/99

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

Introduced by: Senators Munson (David), Moore, and Stagers and Representatives Kooistra, Chicoine, and Volesky

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the grant of a permit
2 to construct a railroad.

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

4 Section 1. That § 49-16A-1 be amended to read as follows:

5 49-16A-1. Terms used in this chapter mean:

- 6 (1) "Common carrier," a carrier which holds itself out to the general public as engaged
7 in the business of transporting freight in intrastate commerce which it is accustomed
8 to and is capable of transporting from place to place in this state, for hire;
- 9 (2) "Department," the Department of Transportation created by chapter 1-44;
- 10 (3) "For hire," the condition of receiving remuneration of any kind, paid or promised,
11 either directly or indirectly, for the transportation of freight;
- 12 (4) "Freight," all property tendered for transportation by a railroad;
- 13 (5) "Railroad," a any association or corporation, or other entity, other than a state agency
14 or authority, engaged in operating a common carrier by rail regardless of motive
15 power used, excluding street railroads;

1 (6) "Road," all track, right-of-way, bridges, mainlines, branchlines, spurs, sidetracks,
2 interchanges, and all other fixtures and real property owned or operated by a railroad
3 to discharge its obligations as a common carrier by rail;

4 (7) "Shipper," a consignor or consignee;

5 (8) "Commission," the Transportation Commission created by § 1-44-4;

6 (9) "Negotiated in good faith," a bona fide offer to pay all costs and damages as
7 compensation for the acquisition of property desired by the applicant for the
8 construction or reconstruction of a road, including the economic costs or diminution
9 associated with or caused by the construction or reconstruction if there is a partial
10 taking of property.

11 Section 2. That § 49-16A-75 be amended to read as follows:

12 49-16A-75. A railroad may exercise the right of eminent domain in acquiring right-of-way
13 as provided by statute, but only upon obtaining authority from the Governor or the commission,
14 based upon a determination by the Governor or the commission that the railroad's exercise of the
15 right of eminent domain would be for a public use consistent with public necessity. The Governor
16 or the commission may, without limitation, consider the requirements of sections 3, 4, and 5 of
17 this Act when granting or denying an application for authority to use eminent domain. The
18 decision to grant or deny an application shall be made after reasonable notice and opportunity
19 to be heard, pursuant to chapter 1-26.

20 Section 3. That chapter 49-16A be amended by adding thereto a NEW SECTION to read
21 as follows:

22 The commission shall promulgate rules in accordance with chapter 1-26:

23 (1) Establishing a form upon which a railroad may apply for authority to exercise the right
24 of eminent domain;

25 (2) Specifying the information to be submitted by an applicant; and

1 (3) Administering applications for authority to exercise the right of eminent domain.

2 Section 4. That chapter 49-16A be amended by adding thereto a NEW SECTION to read
3 as follows:

4 The applicant has the burden of proving by clear and convincing evidence that the exercise
5 of the right of eminent domain is a public use consistent with public necessity.

6 Section 5. That chapter 49-16A be amended by adding thereto a NEW SECTION to read
7 as follows:

8 A railroad's exercise of the right of eminent domain is a public use consistent with public
9 necessity only if the use of eminent domain:

10 (1) Has as a purpose providing railroad transportation to shippers in South Dakota, for
11 commodities produced, manufactured, mined, grown, used, or consumed in South
12 Dakota;

13 (2) Is proposed by an applicant with the financial resources necessary to complete the
14 proposed construction or reconstruction along with any related facilities, construction,
15 or mitigation which are necessary to protect against harm to the public safety,
16 convenience, or other adverse socioeconomic or environmental impact, as evidenced
17 by an irrevocable financing commitment from a lender with adequate capitalization to
18 fulfill its commitment;

19 (3) Is proposed by an applicant who has complied with chapter 34A-9;

20 (4) Is proposed by an applicant who has negotiated in good faith to privately acquire
21 sufficient property without the use of eminent domain;

22 (5) Is proposed by an applicant who has filed a plat, as required by § 49-16A-64, and that
23 plat specifically sets forth the route of the road to be constructed or reconstructed,
24 identifies each affected landowner, and specifies the location, along with construction
25 methods and engineering specifications for all main lines, sidings, yards, bridges,

1 crossings, safety devices, switches, signals, and maintenance facilities; and
2 (6) Provides that electric utilities, public utilities, telecommunication companies, and rural
3 water systems have the right to the use of the right-of-way for the placement of
4 underground facilities, without fee, subject to reasonable regulation as to location and
5 placement.

1 **BILL HISTORY**

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

3 2/11/99 Scheduled for Committee hearing on this date.

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

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

6 2/18/99 Transportation Do Pass Amended, Passed, AYES 4, NAYS 3. S.J. 536

7 2/19/99 Senate Do Pass Amended, Passed, AYES 18, NAYS 15. S.J. 598

8 2/22/99 First read in House and referred to Taxation. H.J. 691

9 2/25/99 Scheduled for Committee hearing on this date.

10 2/25/99 Taxation Deferred to 41st legislative day.

11 3/1/99 Taxation Hog Housed.

12 3/1/99 House of Representatives Placed on Calendar, AYES 60, NAYS 4. H.J. 816

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

716C0516

SENATE ENGROSSED NO. **SB145** - 2/10/99

Introduced by: Senators Rounds, Brown (Arnold), Dunn (Jim), Duxbury, Lawler, and Moore
and Representatives Roe, Davis, Fischer-Clemens, Garnos, Lockner, Lucas,
Michels, Monroe, Munson (Donald), and Smidt

1 FOR AN ACT ENTITLED, An Act to authorize the donation of annual leave by state employees
2 in certain circumstances.

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

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

6 Any employee of the state may donate vacation leave to another state employee who meets
7 all of the following criteria:

8 (1) The recipient employee will use the donated leave to care for the recipient employee's
9 spouse, child, or parent who is terminally ill;

10 (2) The recipient employee's spouse, child, or parent is suffering from an acutely life
11 threatening illness or injury which has been certified by a licensed physician as having
12 a significant likelihood of terminating fatally; and

13 (3) All leave benefits for which the recipient employee is eligible have been exhausted.
14 The total paid leave, including the donated vacation leave pursuant to this section, may not
15 exceed twelve weeks annually per recipient employee. The donation shall be approved by the
16 Bureau of Personnel under rules promulgated pursuant to chapter 1-26 by the Career Service

1 Commission, including number of hours to be donated, confidentiality of a donation, definition
2 of terminally ill, definition of life threatening illness or injury, criteria for determining employee
3 eligibility to receive or donate leave and for prorating donated leave for part-time employees, and
4 procedures for approval of the donation. Any donation shall be in compliance with the provisions
5 of §§ 3-6-6 and 3-6-6.1.

6 Section 2. That § 3-6-8.5 be amended to read as follows:

7 3-6-8.5. Any donation of leave pursuant to § 3-6-8.4 or section 1 of this Act may be
8 restricted as follows:

- 9 (1) The donating employee may only donate leave to an employee who is at the same or
10 lower paygrade as the donating employee;
- 11 (2) The donation may be denied based upon funding considerations within the agency, at
12 the discretion of the commissioner.

1 **BILL HISTORY**

2 1/26/99 First read in Senate and referred to State Affairs. S.J. 196

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

4 2/1/99 State Affairs Deferred to another day.

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

6 2/5/99 State Affairs Do Pass Amended, Passed, AYES 7, NAYS 1. S.J. 348

7 2/9/99 Motion to Amend, Passed. S.J. 405

8 2/9/99 Senate Do Pass Amended, Passed, AYES 27, NAYS 7. S.J. 405

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

834C0468

HOUSE TAXATION COMMITTEE ENGROSSED NO. **SB161** - 3/1/99

Introduced by: Senators Daugaard, Brosz, Duxbury, Flowers, Halverson, Hutmacher, Paisley, Shoener, and Symens and Representatives Cutler, Apa, Brown (Richard), Duenwald, Fiegen, Haley, Jaspers, Koskan, McNenny, Napoli, Peterson, Waltman, and Wilson

1 FOR AN ACT ENTITLED, An Act to establish a procedure for bringing taxes current and
2 issuing certain permits, and to establish certain penalties.

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 If a manufactured home is purchased or moved to a specific site after November first and the
7 manufactured home is moved, sold, transferred, or reassigned before November first in the
8 following year, no property taxes are due. The county treasurer shall issue an affidavit stating
9 that no taxes are due.

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

12 If a manufactured home is purchased or moved to a specific site on or before November first
13 and the property has been assessed as real property and the owner of the manufactured home
14 plans to move, sell, transfer, or reassign the manufactured home before November first in the
15 following year, the county auditor shall levy a tax by applying the tax levy used for taxes payable

1 during the current year on other property in the same taxing district. The owner shall pay such
2 tax in full for the current year, not on a pro rata basis. If the taxes are paid in full, the county
3 treasurer shall issue an affidavit stating that the current year's taxes are paid.

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

6 If a manufactured home has been assessed as real property and taxes are payable and the
7 owner of the manufactured home plans to move, sell, transfer, or reassign the manufactured
8 home before all the current taxes are paid, then the owner shall pay the current taxes in full, not
9 on a pro rata basis. If the taxes are paid in full, the county treasurer shall issue an affidavit stating
10 that the current year's taxes are paid.

11 Section 4. That § 32-5-16.3 be amended to read as follows:

12 32-5-16.3. Any person who moves a mobile home or manufactured home shall obtain a
13 permit, as prescribed by the secretary of revenue, from the county treasurer where the home is
14 located. The permit fee is valid for a single trip from the point of origin to a point of destination
15 within the state. Before the county treasurer may issue a permit, the owner of the mobile home
16 or manufactured home shall obtain an affidavit from the county treasurer stating that the current
17 year's taxes are paid as described in sections 1 to 3, inclusive, of this Act or § 10-9-3. The permit
18 fee for mobile homes and manufactured homes for use on the public highways is fifteen dollars.
19 ~~The permit is valid for a single trip from the point of origin to a point of destination within the~~
20 ~~state.~~ The fees collected shall be credited to the license plate special revenue fund. The fee and
21 permit imposed by this section does not apply to a new or used mobile home or manufactured
22 home ~~being delivered from the dealer to the purchaser~~ transported by a dealer licensed under
23 chapter 32-7A. A violation of this section is a Class 2 misdemeanor.

24 Section 5. That § 32-7A-17 be amended to read as follows:

25 32-7A-17. Any transfer or reassignment of a mobile home or manufactured home title shall

1 be accompanied by an affidavit issued by the county treasurer of the county in which the mobile
2 home or manufactured home is registered, stating that the current year's taxes are paid. The
3 county treasurer shall apply the requirements of section 1 to 3, inclusive, of this Act to determine
4 if the current year's taxes are paid. No title may be transferred until the taxes under § 10-9-3 or
5 10-21-4 are paid. No transfer of title may be completed unless the mobile home or manufactured
6 home is registered as provided in § 10-9-3 or 10-4-2.6. In any event the title or manufacturer's
7 statement of origin shall be transferred within thirty days of delivery of the manufactured home
8 or mobile home. A violation of this section is a ~~Class 2~~ Class 1 misdemeanor.

9 Section 6. That § 32-7A-4.2 be amended by adding thereto a NEW SUBDIVISION to read
10 as follows:

11 Transporting a used mobile home or manufactured home without an affidavit, from the
12 county treasurer of the county in which the mobile home or manufactured home is registered,
13 stating that the current year's taxes are paid.

14 Section 7. That § 32-7A-11 be amended to read as follows:

15 32-7A-11. New and used mobile homes and manufactured homes owned by a dealer may be
16 transported upon the streets and highways to the dealer's place of business and to the purchaser
17 of such a home and between a dealer's place of business and a supplemental lot or a temporary
18 supplemental lot. Any transport of a mobile home or manufactured home by a dealer shall be
19 accompanied with a permit stating the point of origin and the point of destination. The dealer
20 shall provide a copy of the permit to the director of equalization in the county of origin and to
21 the director of equalization in the county of destination.

1 **BILL HISTORY**

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

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

4 2/2/99 Commerce Do Pass Amended, Passed, AYES 7, NAYS 0. S.J. 295

5 2/2/99 Commerce Place on Consent Calendar.

6 2/5/99 Senate Deferred to another day. S.J. 357

7 2/9/99 Senate Deferred to another day. S.J. 403

8 2/11/99 Senate Do Pass Amended, Failed, AYES 11, NAYS 23. S.J. 450

9 2/11/99 Intent to reconsider. S.J. 450

10 2/12/99 Senate Reconsidered, AYES 27, NAYS 7. S.J. 479

11 2/12/99 Motion to Amend, Passed. S.J. 480

12 2/12/99 Senate Do Pass Amended, Passed, AYES 29, NAYS 5. S.J. 480

13 2/12/99 Senate Title Amended Passed. S.J. 480

14 2/16/99 First read in House and referred to Taxation. H.J. 552

15 2/25/99 Scheduled for Committee hearing on this date.

16 2/25/99 Taxation Do Pass Amended, Passed, AYES 13, NAYS 0. H.J. 789

17 2/25/99 Taxation Place on Consent Calendar.

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

385C0572

HOUSE STATE AFFAIRS COMMITTEE

ENGROSSED NO. **SB188** - 3/2/99

Introduced by: Senators Lange, Drake, Moore, Staggers, and Valandra and Representatives Koetzle, Hagen, Haley, Jaspers, Kooistra, Lucas, Solum, Weber, and Wilson

1 FOR AN ACT ENTITLED, An Act to limit the application of capital punishment.

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

3 Section 1. That chapter 23A-27A be amended by adding thereto a NEW SECTION to read
4 as follows:

5 Notwithstanding any other provisions of this chapter, no judge may impose the death penalty
6 against any defendant if the defendant was less than sixteen years of age at the time when the
7 offense occurred.

1 **BILL HISTORY**

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

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

4 2/3/99 Judiciary Do Pass Amended, Passed, AYES 5, NAYS 2. S.J. 314

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

6 2/8/99 Deferred with pending amendment (Rule 5-17). S.J. 378

7 2/10/99 Motion to Amend, Passed. S.J. 426

8 2/10/99 Senate Do Pass Amended, Passed, AYES 25, NAYS 10. S.J. 426

9 2/11/99 First read in House and referred to State Affairs. H.J. 491

10 3/1/99 Scheduled for Committee hearing on this date.

11 3/1/99 State Affairs Do Pass Amended, Passed, AYES 10, NAYS 3.

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** - 3/2/99

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

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 chapter 22-42 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any person who commits a violation of § 22-42-5 or 22-42-6 is guilty of a Class 6 felony if
7 the person is at least nineteen years of age and if such activity has taken place:

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

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

12 However, possession of a controlled drug or substance, as defined in chapter 34-20B, legally
13 prescribed to the person or an immediate family member by a licensed practitioner of the healing
14 arts, is exempt from the provisions of this section.

15 The sentence imposed for a conviction under this section carries a minimum sentence of
16 imprisonment in the state penitentiary of one year. Any sentence imposed under this section shall

1 be consecutive to any other sentence imposed for the principal felony. The court may not place
2 on probation, suspend the execution of the sentence, or suspend the imposition of the sentence
3 of any person convicted of a violation of this section. However, the sentencing court may impose
4 a sentence other than that specified in this section if the court finds that mitigating circumstances
5 exist which require a departure from the mandatory sentence provided for in this section. The
6 court's finding of mitigating circumstances allowed by this section and the factual basis relied
7 upon by the court shall be in writing.

8 It is not a defense to the provisions of this section that the defendant did not know the
9 distance involved. It is not a defense to the provisions of this section that school was not in
10 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

10 2/23/99 House of Representatives Deferred to another day. H.J. 725

11 2/24/99 House of Representatives Deferred to another day. H.J. 761

12 2/25/99 Referred to State Affairs. H.J. 776

13 3/1/99 Scheduled for Committee hearing on this date.

14 3/1/99 State Affairs Do Pass Amended, Passed, AYES 9, NAYS 4.

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

400C0757

HOUSE STATE AFFAIRS COMMITTEE

ENGROSSED NO. **SB210** - 3/2/99

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

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

1 FOR AN ACT ENTITLED, An Act to provide mandatory prison sentences for certain violations
2 regarding controlled substances and marijuana.

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

4 Section 1. That chapter 22-42 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any person who has been convicted of a violation of §§ 22-42-2.1, 22-42-3 to 22-42-4.1,
7 inclusive, 22-42-5 to 22-42-8, inclusive, 22-42-10, 22-42-16, 22-42-19, 34-20B-42, and 34-20B-
8 46 shall, in addition to any other penalties, be remanded to the custody of the Department of
9 Corrections for a period of ten days, no part of which may be waived or suspended except as
10 provided in § 22-42-2.3. The secretary of the Department of Corrections shall assign the person
11 to an institution under the jurisdiction of the secretary.

12 Section 2. That § 22-42-2.3 be amended to read as follows:

13 22-42-2.3. The sentencing court may impose a sentence other than that which is required by
14 § 22-42-2 and section 1 of this Act if the court finds that mitigating circumstances exist which
15 require a departure from the mandatory sentence imposed by § 22-42-2 or section 1 of this Act.

16 The court's finding of mitigating circumstances allowed by this section and the factual basis relied

1 upon by the court shall be in writing and shall be filed with the clerk of courts.

2 Section 3. The mandatory incarceration provisions of section 1 of this Act do not apply to
3 a child, as defined in subdivision 26-7A-1(6), unless the child is tried as an adult pursuant to
4 § 26-11-3.1 or 26-11-4.

5 Section 4. Notwithstanding the provisions of § 22-1-4, crimes otherwise denominated as
6 misdemeanors whose penalty includes an additional ten-day incarceration in the custody of the
7 Department of Corrections pursuant to section 1 of this Act shall remain classified as
8 misdemeanors.

9 Section 5. The provisions of § 23A-27-35 do not apply to any person whose sentence
10 includes no more than ten days incarceration in the custody of the Department of Corrections.

11 Section 6. That § 22-6-2 be amended to read as follows:

12 22-6-2. Except as otherwise provided by law, misdemeanors are divided into two classes
13 which are distinguished from each other by the following maximum penalties which are
14 authorized upon conviction:

15 (1) Class 1 misdemeanor: one year imprisonment in a county jail or one thousand dollars
16 fine, or both;

17 (2) Class 2 misdemeanor: thirty days imprisonment in a county jail or two hundred dollars
18 fine, or both.

19 Misdemeanors may include incarceration in the custody of the Department of Corrections
20 as provided in section 1 of this Act.

21 The court in imposing sentence on a defendant who has been found guilty of a misdemeanor
22 shall order, in addition to the sentence that is imposed pursuant to the provisions of this section,
23 that the defendant make restitution to any victim in accordance with the provisions of chapter
24 23A-28.

25 Except in cases where punishment is prescribed by law, every offense declared to be a

1 misdemeanor and not otherwise classified, is a Class 2 misdemeanor.

2 Except in Titles 1 to 20, inclusive, 22, 25 to 28, inclusive, 32 to 36, inclusive, 40 to 42,
3 inclusive, 47 to 54, inclusive, and 58 to 62, inclusive, if the performance of an act is prohibited
4 by a statute, and no penalty for the violation of such statute is imposed by a statute, the doing
5 of such act is a Class 2 misdemeanor.

6 Section 7. That § 26-8C-4 be amended to read as follows:

7 26-8C-4. If the court is satisfied that the best interests of the public, justice and child will be
8 served, the court may, without entering an adjudication of delinquency, with consent of the child,
9 suspend imposition of adjudication of delinquency and place the child on probation under the
10 terms, conditions, and duration required by the court. If the proceeding involves the unlawful
11 possession or distribution of marijuana or a controlled drug or substance, the court shall include
12 as a condition of probation that the child be committed to the Department of Corrections for a
13 period of not less than ten days which may not be reduced unless the court finds mitigating
14 circumstances exist which require a departure from the mandatory ten-day incarceration in the
15 custody of the Department of Corrections. The court's finding of mitigating circumstances
16 allowed by this section and the factual basis relied upon by the court shall be in writing. A court
17 may revoke the suspension at any time during the probationary period and impose an
18 adjudication of delinquency without diminishment or credit for any of the probationary period.

19 Section 8. That § 26-8C-7 be amended to read as follows:

20 26-8C-7. ~~If~~ Except as provided in section 7 of this Act, if a child has been adjudicated as a
21 delinquent child, the court shall enter a decree of disposition according to the least restrictive
22 alternative available in keeping with the best interests of the child. The decree shall contain one
23 or more of the following alternatives:

- 24 (1) The court may make any one or more of the dispositions in § 26-8B-6, except that
25 a delinquent child may be incarcerated in a detention facility established pursuant to

1 provisions of chapter 26-7A for not more than ninety days, which may be in addition
2 to any period of temporary custody;

3 (2) The court may impose a fine not to exceed one thousand dollars;

4 (3) The court may place the child on probation under the supervision of a court services
5 officer or another designated individual. The child may be required as a condition of
6 probation to report for assignment to a supervised work program, provided the child
7 is not deprived of the schooling that is appropriate for the child's age, needs and
8 specific rehabilitative goals. The supervised work program shall be of a constructive
9 nature designed to promote rehabilitation, appropriate to the age level and physical
10 ability of the child, and shall be combined with counseling by the court services officer
11 or other guidance personnel. The supervised work program assignment shall be made
12 for a period of time consistent with the child's best interests, but for not more than
13 ninety days;

14 (4) The court may place the child at the Human Services Center for examination and
15 treatment;

16 (5) The court may commit the child to the Department of Corrections;

17 (6) The court may place the child in a detention facility for not more than ninety days,
18 which may be in addition to any period of temporary custody;

19 (7) The court may place the child in an alternative educational program;

20 (8) The court may order the suspension or revocation of the child's driving privilege or
21 restrict the privilege in such manner as it sees fit.

22 Section 9. That chapter 26-8C be amended by adding thereto a NEW SECTION to read as
23 follows:

24 If a child has been adjudicated as a delinquent child for a violation of state law regarding the
25 possession or distribution of marijuana or a controlled drug or substance, the court shall enter

1 a decree of disposition committing the child to the Department of Corrections for a period of not
2 less than ten days unless the court finds mitigating circumstances exist which require a departure
3 from the mandatory ten-day incarceration in the custody of the Department of Corrections. The
4 court's finding of mitigating circumstances allowed by this section and the factual basis relied
5 upon by the court shall be in writing. Probation, suspended imposition of adjudication of
6 delinquency, suspended execution of adjudication of delinquency, or discharged under § 26-7A-
7 122 may not form the basis for reducing the mandatory time of commitment required by this
8 section to less than ten days.

9 Section 10. That chapter 22-42 be amended by adding thereto a NEW SECTION to read as
10 follows:

11 The Governor may offer a standing reward of not more than one thousand dollars for
12 evidence leading to the arrest and conviction of any person or persons guilty of any violation of
13 chapter 22-42, § 34-20B-42, or 34-20B-46. The Governor may also offer special rewards in
14 reasonable amounts for the purpose of securing the arrest and conviction of any person or
15 persons charged with a felony under this section.

16 Section 11. There is hereby appropriated from the general fund the sum of one million dollars
17 (\$1,000,000), or so much thereof as may be necessary, to the Office of the Governor for the
18 purpose of making payments for the rewards authorized in section 10 of this Act.

19 Section 12. The Governor shall approve vouchers and the state auditor shall draw warrants
20 to pay expenditures authorized by this Act.

1 **BILL HISTORY**

2 1/29/99 First read in Senate and referred to State Affairs. S.J. 254

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

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

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

6 2/17/99 Scheduled for Committee hearing on this date.

7 2/17/99 State Affairs Do Pass Amended, Passed, AYES 5, NAYS 3. S.J. 540

8 2/18/99 State Affairs Hog Housed.

9 2/19/99 Motion to Amend, Passed. S.J. 602

10 2/19/99 Motion to Amend, Passed. S.J. 604

11 2/19/99 Senate Do Pass Amended, Failed, AYES 22, NAYS 11. S.J. 605

12 2/19/99 Intent to reconsider, AYES 22, NAYS 11. S.J. 605

13 2/19/99 Motion to Amend, Passed. S.J. 606

14 2/19/99 Senate Do Pass Amended, Passed, AYES 29, NAYS 4. S.J. 607

15 2/19/99 Senate Title Amended Passed. S.J. 607

16 2/22/99 First read in House and referred to State Affairs. H.J. 691

17 3/1/99 Scheduled for Committee hearing on this date.

18 3/1/99 State Affairs Do Pass Amended, Passed, AYES 8, NAYS 5.

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

664C0675

SENATE ENGROSSED NO. **SB221** - 2/9/99

Introduced by: Senators Dennert, Benson, Bogue, Drake, Duxbury, and Symens and
Representatives Cutler, Diedrich (Elmer), Duenwald, Jaspers, McNenny,
Sutton (Daniel), and Sutton (Duane)

1 FOR AN ACT ENTITLED, An Act to clarify and revise certain provisions relating to the
2 exchange of school lands and to declare an emergency.

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

4 Section 1. That § 5-3-7 be amended to read as follows:

5 5-3-7. The commissioner of school and public lands may exchange, with the approval of the
6 Governor and following a public hearing, any school section or portion of a school section for
7 any land located within the State of South Dakota of like appraised value. The commissioner
8 may also exchange, with the approval of the Governor and following a public hearing, any school
9 section or portion of a school section for any land located within the State of South Dakota of
10 appraised value of at least seventy-five percent of the school land if the difference is paid in cash
11 at the time of the exchange. Such exchanges may be conditional as long as the transfer is
12 completed within two years and as long as the trust corpus is never diminished. Any cash
13 received from such an exchange shall be treated as a cash sale pursuant to the provisions of
14 chapter 5-9. The commissioner shall promulgate rules pursuant to chapter 1-26 to establish the
15 procedures and criteria for such exchanges.

16 Section 2. Whereas, this Act is necessary for the support of the state government and its

- 1 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full
- 2 force and effect from and after its passage and approval.

1 **BILL HISTORY**

2 2/1/99 First read in Senate and referred to Education. S.J. 275

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

4 2/4/99 Education Do Pass, Passed, AYES 7, NAYS 0. S.J. 332

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

6 2/8/99 Motion to Amend, Passed. S.J. 379

7 2/8/99 Senate Do Pass Amended, Passed, AYES 34, NAYS 0. S.J. 379

8 2/8/99 Senate Title Amended Passed. S.J. 380

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

860C0856

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **SB233** - 3/2/99

Introduced by: Senator Rounds and Representative Cutler

1 FOR AN ACT ENTITLED, An Act to provide increased funding for the maintenance of state
2 and local highways and roads, to repeal the wheel tax, and to declare an emergency.

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

4 Section 1. That § 10-47B-4 be amended to read as follows:

5 10-47B-4. The fuel excise tax rates for the tax imposed by this chapter are as follows:

6 (1) Motor fuel (except ethanol blends, E85 and M85 blends, and aviation gasoline) ~~-\$18~~

7 \$.22 per gallon;

8 (2) Special fuel (except jet fuel) ~~-\$18~~ \$.22 per gallon;

9 (3) Ethanol blends ~~-\$16~~ \$.20 per gallon;

10 (4) Aviation gasoline ~~-\$06~~ per gallon;

11 (5) Jet fuel ~~-\$04~~ per gallon;

12 (6) E85 and M85 ~~-\$06~~ \$.10 per gallon;

13 (7) E85 and M85 used in aircraft ~~-\$04~~ per gallon;

14 (8) Liquid petroleum gas ~~-\$16~~ \$.20 per gallon;

15 (9) Compressed natural gas ~~-\$06~~ \$.10 per gallon.

16 Section 2. That § 32-5-6 be amended to read as follows:

1 32-5-6. License fees and compensation on a noncommercial motor vehicle which is an
2 automobile, pickup truck, or van as provided by § 32-5-5, shall be determined by the
3 manufacturer's shipping weight, including accessories, as follows:

- 4 (1) Two thousand pounds or less, inclusive, ~~twenty~~ thirty-two dollars;
- 5 (2) From 2,001 to 4,000 pounds, inclusive, ~~thirty~~ forty-two dollars;
- 6 (3) From 4,001 to 6,000 pounds, inclusive, ~~forty~~ fifty-two dollars;
- 7 (4) ~~to (11) Repealed by SL 1992, ch 26, § 7~~ From 6,001 to 8,000 pounds, inclusive,
8 sixty-two dollars;
- 9 (5) From 8,001 to 10,000 pounds, inclusive, seventy-two dollars.

10 Section 3. That § 32-5-6.1 be amended to read as follows:

11 32-5-6.1. License fees and compensation on recreational motor buses as defined by this
12 section shall be determined pursuant to § 32-5-6.3. However, the maximum license fee and
13 compensation for a recreational motor bus shall be one hundred and twelve dollars. For the
14 purposes of this section the term, recreational motor bus, means a motor bus which has been
15 converted for recreational purposes subsequent to the initial retail sale.

16 Section 4. That § 32-5-6.3 be amended to read as follows:

17 32-5-6.3. License fees on a noncommercial motor vehicle which is not an automobile, pickup
18 truck, or van ~~as provided by~~ licensed pursuant to § 32-5-6 shall be determined by the gross
19 weight of the motor vehicle as defined by subdivision 32-9-1(6), and based on the following:

- 20 (1) Eight thousand pounds or less, inclusive, ~~forty-eight~~ sixty dollars;
- 21 (2) For each additional 2,000 pounds or major fraction thereof from 8,001 to 32,000
22 pounds, inclusive, three dollars;
- 23 (3) For each additional 2,000 pounds or major fraction thereof from 32,001 to 54,000
24 pounds, inclusive, six dollars;
- 25 (4) For each additional 2,000 pounds or major fraction thereof from 54,001 to 80,000

1 pounds, inclusive, eighteen dollars;

2 (5) For each additional 2,000 pounds or major fraction thereof in excess of 80,000
3 pounds, twenty-four dollars.

4 It is a Class 2 misdemeanor for a person to operate a motor vehicle licensed pursuant to this
5 section at a gross weight in excess of the gross weight for which it has been licensed.

6 Section 5. That § 32-5-8 be amended to read as follows:

7 32-5-8. License fees and compensation for any recreational vehicle as defined in § 32-3-1 or
8 for any noncommercial trailer and semitrailer, for use of the highways payable under § 32-5-5
9 and pulled by a noncommercial motor vehicle on which the license fees were paid pursuant to
10 § 32-5-6, shall be determined upon the basis of their actual weight as follows:

- 11 (1) One thousand pounds or less, inclusive, ~~five~~ seven dollars;
- 12 (2) From 1,001 to 2,000 pounds, inclusive, ~~fifteen~~ seventeen dollars;
- 13 (3) From 2,001 to 3,000 pounds, inclusive, ~~twenty-five~~ twenty-seven dollars;
- 14 (4) From 3,001 to 4,000 pounds, inclusive, ~~thirty-five~~ thirty-seven dollars;
- 15 (5) From 4,001 to 5,000 pounds, inclusive, ~~forty-five~~ forty-seven dollars;
- 16 (6) From 5,001 to 6,000 pounds, inclusive, ~~fifty-five~~ fifty-seven dollars;
- 17 (7) From 6,001 to 7,000 pounds, inclusive, ~~sixty-five~~ sixty-seven dollars;
- 18 (8) From 7,001 to 8,000 pounds, inclusive, ~~seventy-five~~ seventy-seven dollars;
- 19 (9) From 8,001 to 9,000 pounds, inclusive, ~~eighty-five~~ eighty-seven dollars;
- 20 (10) From 9,001 to 10,000 pounds, inclusive, ~~ninety-five~~ ninety-seven dollars;
- 21 (11) For each additional 1,000 pounds or major fraction thereof, in excess of 10,000
22 pounds, ten dollars.

23 Any trailer or semitrailer licensed pursuant to this section may be pulled by a noncommercial
24 motor vehicle licensed pursuant to § 32-5-8.1 or a commercially licensed motor vehicle if the
25 motor vehicle is registered at a gross weight to cover the weight of the trailer and its load.

1 Section 6. That § 32-5-8.1 be amended to read as follows:

2 32-5-8.1. Each trailer or semitrailer pulled by a noncommercial motor vehicle on which the
3 license fees were paid pursuant to § 32-5-6.3 shall have an identification plate displayed in a
4 conspicuous manner. The fee for the identification plate is ten dollars. The identification plate
5 is valid for the useful life of the trailer or semitrailer. However, if the title to the trailer or
6 semitrailer is transferred, the new owner shall within thirty days of the date of transfer make
7 application to the department for a new identification plate. All revenue raised by the fees shall
8 be placed in the license plate special revenue fund. However, no identification plate may be
9 displayed on a recreational vehicle as defined in § 32-3-1. Such a recreational vehicle shall be
10 licensed pursuant to § 32-5-8.

11 Section 7. That § 32-5-9 be amended to read as follows:

12 32-5-9. License fees and compensation for use of the highways payable under § 32-5-5 shall
13 be: ~~seven~~ nine dollars and fifty cents for motorcycles with a piston displacement of less than three
14 hundred fifty cubic centimeters and ~~ten~~ twelve dollars for motorcycles with a piston displacement
15 of three hundred fifty cubic centimeters or more.

16 Section 8. That § 32-6B-21 be amended to read as follows:

17 32-6B-21. The department shall issue metal numerical license plates to licensed dealers upon
18 application and payment of a ~~thirty~~ forty-two dollar yearly fee to be paid at the time of the annual
19 review date for each set desired. Such fees shall be distributed in the manner specified in
20 §§ 32-11-2 and 32-11-4.1 to 32-11-9, inclusive. The license plates shall be numbered
21 consecutively and shall bear as a prefix the number "77". The plates may be issued for a multiple
22 year period. If a dealer's license is revoked or canceled or the dealer goes out of business the
23 "77" plates shall be returned to the department. If any person operates a motor vehicle with "77"
24 plates after the dealer license is revoked or canceled or after the dealer goes out of business, or
25 if the person refuses to return the plates, the person is guilty of a Class 2 misdemeanor.

1 Section 9. That § 32-10-35 be amended to read as follows:

2 32-10-35. Fees collected by the secretary of revenue and not otherwise provided for shall be
3 distributed as provided by this section. Fees collected under chapter 32-10 by the secretary of
4 revenue pursuant to § 32-5B-1 shall be deposited in the state highway fund. Fees collected under
5 chapter 32-10 by the secretary of revenue pursuant to chapter 32-9 shall be distributed with
6 ~~fifty-four~~ fifty-seven percent to the ~~state highway~~ local government highway and bridge fund,
7 forty-one and one-half percent to counties, ~~two one-half~~ percent to the state motor vehicle fund,
8 and ~~two and one-half~~ one percent to the state license plate special revenue fund. The counties'
9 portion shall be distributed among the counties, pro rata, twenty-five percent according to truck
10 registrations, twenty-five percent according to population, and fifty percent according to total
11 road mileage. Each county shall distribute fifty-four percent of its portion to the county general
12 fund, thirty-four percent of its portion to the special highway fund as provided by § 32-11-4.1,
13 and twelve percent of its portion to the municipalities of the county pursuant to § 32-11-4.1.

14 Section 10. There is hereby appropriated each fiscal year from the state highway fund the
15 sum of one million thirty-three thousand two hundred sixty-nine dollars and ten cents to the
16 Department of Revenue for distribution to the counties. The moneys shall be distributed to the
17 counties in the same amounts as funds were distributed to the counties by the Department of
18 Game, Fish and Parks for license fees in calendar year 1997, pursuant to § 41-6-70. The moneys
19 shall be deposited in the special highway fund of each county. The secretary of revenue shall
20 distribute the money prior to December thirty-first of each year.

21 Section 11. The effective date of section 1 of this Act is April 1, 1999.

22 Section 12. The effective date of sections 2 to 10, inclusive, of this Act is July 1, 1999.

23 Section 13. Whereas, this Act is necessary for the support of the state government and its
24 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full
25 force and effect from and after its passage and approval.

1 Section 14. That § 32-5A-1 be repealed.

2 ~~— 32-5A-1. Any county may, by ordinance, impose a wheel tax on all motor vehicles, as defined~~
3 ~~in § 32-3-1, registered in the county at a rate not to exceed four dollars per vehicle wheel. The~~
4 ~~tax shall be administered and collected by the county. The total vehicle tax may not exceed~~
5 ~~sixteen dollars per vehicle.~~

6 Section 15. That § 32-5A-2 be repealed.

7 ~~— 32-5A-2. The proceeds from the tax created by this chapter shall be retained by the county,~~
8 ~~deposited in a special highway fund, and the revenue may be used only for highway and bridge~~
9 ~~maintenance and construction. The board of county commissioners shall, by resolution, establish~~
10 ~~a means of distributing the revenue generated by this chapter among the county and the~~
11 ~~municipalities and townships located within the county.~~

12 Section 16. That § 32-5A-3 be repealed.

13 ~~— 32-5A-3. Upon purchasing a vehicle from a dealer, the purchaser shall pay the appropriate~~
14 ~~tax at the time of title transfer. Nothing in this chapter shall prevent an automobile dealer from~~
15 ~~licensing the vehicles on his lot without paying any taxes created by this chapter.~~

16 Section 17. That § 32-5A-4 be repealed.

17 ~~— 32-5A-4. The Department of Revenue shall include on any motor vehicle registration~~
18 ~~document mailed out to a vehicle owner prior to the annual registration of a motor vehicle, the~~
19 ~~amount of tax imposed pursuant to § 32-5A-1. A county in which such registration documents~~
20 ~~are mailed to motor vehicle owners shall reimburse the Department of Revenue for the cost of~~
21 ~~implementing this section for that county.~~

22 Section 18. That § 32-5A-5 be repealed.

23 ~~— 32-5A-5. The per vehicle wheel rate imposed pursuant to § 32-5A-1 may be imposed~~
24 ~~according to the manufacturer's shipping weight, including accessories, and may vary according~~
25 ~~to the following schedule:~~

1 ~~—(1)— Two thousand pounds or less, inclusive;~~

2 ~~—(2)— From 2001 to 4000 pounds, inclusive;~~

3 ~~—(3)— From 4001 to 6000 pounds, inclusive;~~

4 ~~—(4)— Over 6000 pounds.~~

5 Section 19. That § 32-5A-6 be repealed.

6 ~~—32-5A-6. If a county imposes a wheel tax pursuant to § 32-5A-1 in excess of two dollars per~~
7 ~~wheel, all of the revenue from the tax that is in excess of two dollars per wheel shall be used to~~
8 ~~replace property taxes the county imposes for highway purposes.~~

9 Section 20. That § 32-5A-7 be repealed.

10 ~~—32-5A-7. If a motor vehicle is licensed for a period of time of less than twelve months, any~~
11 ~~wheel tax imposed on such motor vehicle pursuant to this chapter shall be prorated on a monthly~~
12 ~~basis.~~

13 Section 21. That § 32-5-78 be amended to read as follows:

14 32-5-78. Except as otherwise specifically provided and except as to compensation for use
15 of the highways by motor carriers, the license fees and taxes imposed upon all of the classes of
16 motor vehicles as specified in §§ 32-5-5 to 32-5-46, inclusive, 32-5-77, 32-5B-1, and 32-5B-20
17 are in lieu of all taxes, general or local, ~~except for the tax created in § 32-5A-1~~, to which such
18 vehicle would otherwise be subject.

19 Section 22. That § 32-5-129 be amended to read as follows:

20 32-5-129. The secretary of revenue may license agents to perform the duties of county
21 treasurers, including collecting fees and taxes, registering and titling vehicles or boats, and noting
22 liens on titles, pursuant to this chapter, ~~chapter 32-5A~~, chapter 32-5B, chapter 32-3, and chapter
23 42-8.

24 Section 23. That § 32-5-135 be amended to read as follows:

25 32-5-135. ~~Licensed agents shall submit all revenue collected pursuant to chapter 32-5A to~~

1 ~~the secretary of revenue for distribution to counties.~~ Licensed agents shall submit all revenue
2 collected pursuant to chapter 32-5B to the secretary of revenue for deposit in the state highway
3 fund.

4 Section 24. The effective date of sections 14 to 23, inclusive, of this Act is January 1, 2000.

1 **BILL HISTORY**

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

3 2/10/99 Scheduled for Committee hearing on this date.

4 2/10/99 State Affairs Do Pass, Passed, AYES 7, NAYS 2. S.J. 443

5 2/12/99 Senate Deferred to another day. S.J. 485

6 2/16/99 Senate Deferred to another day. S.J. 504

7 2/17/99 Senate Deferred to another day. S.J. 531

8 2/18/99 Motion to Amend, Passed. S.J. 560

9 2/18/99 Motion to Amend, Passed. S.J. 562

10 2/18/99 Senate Do Pass Amended, Passed, AYES 27, NAYS 7. S.J. 562

11 2/18/99 Senate Title Amended Passed. S.J. 563

12 2/19/99 First read in House and referred to State Affairs. H.J. 653

13 2/26/99 Scheduled for Committee hearing on this date.

14 3/1/99 Scheduled for Committee hearing on this date.

15 3/1/99 State Affairs Do Pass Amended, Passed, AYES 11, NAYS 2.

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

475C0714

SENATE ENGROSSED NO. **SJR4** - 2/16/99

Introduced by: Senators Brown (Arnold), Albers, Brosz, Daugaard, Dennert, Dunn (Jim), Duxbury, Everist, Flowers, Hainje, Halverson, Ham, Lange, Madden, Moore, Paisley, Rounds, Shoener, Vitter, and Whiting and Representatives Solum, Crisp, Davis, Diedrich (Larry), Duenwald, Fitzgerald, Hennies, Hunt, Jaspers, Lockner, Lucas, Smidt, and Weber

1 A JOINT RESOLUTION, Proposing and submitting to the electors at the next general election
2 an amendment to Article III, section 6 of the Constitution of the State of South Dakota,
3 relating to legislative terms and legislative term limits.

4 BE IT RESOLVED BY THE SENATE OF THE STATE OF SOUTH DAKOTA, THE
5 HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

6 Section 1. That at the next general election held in the state, the following amendment to
7 Article III, section 6 of the Constitution of the State of South Dakota, as set forth in section 2
8 of this Joint Resolution, which is hereby agreed to, shall be submitted to the electors of the state
9 for approval.

10 Section 2. That Article III, section 6 of the Constitution of the State of South Dakota, be
11 amended to read as follows:

12 § 6. The terms of office of the members of the ~~Legislature~~ senate shall be two years and the
13 terms of office of the members of the house of representatives shall be two years; ~~they~~
14 Legislators shall receive for their services the salary fixed by law under the provisions of § 2 of
15 article XXI of this Constitution, and ~~five cents for every mile of~~ mileage for necessary travel in

1 going to and returning from the place of meeting of the Legislature on the most usual route.

2 No person may serve more than ~~four~~ six consecutive terms or a total of ~~eight~~ twelve
3 consecutive years in the senate, whichever is longer, and more than ~~four~~ six consecutive terms
4 or a total of ~~eight~~ twelve consecutive years in the house of representatives, whichever is longer.
5 However, this restriction does not apply to partial terms to which a legislator may be appointed
6 or to legislative service before January 1, 1993.

7 At the primary and general elections in the year 2002, the Legislature shall provide for the
8 election of one senator and two representatives from each district to two-year terms. Any person
9 who has served eight consecutive years in either house immediately prior to the primary and
10 general elections in the year 2002 is ineligible to stand for election to the same house in the year
11 2002. Although the Governor shall fill any vacancy pursuant to Article IV, § 3, the term of
12 appointment may not extend beyond the next general election and the unexpired portion of any
13 term shall be filled at the intervening general election.

14 A regular session of the Legislature shall be held in each odd-numbered year and shall not
15 exceed forty legislative days, excluding Sundays, holidays, and legislative recess, except in cases
16 of impeachment, and members of the Legislature shall receive no other pay or perquisites except
17 salary and mileage.

18 A regular session of the Legislature shall be held in each even-numbered year beginning with
19 the year 1964 and shall not exceed thirty-five legislative days, excluding Sundays, holidays, and
20 legislative recess, except in cases of impeachment, and members of the Legislature shall receive
21 no other pay or perquisites except salary and mileage.

1 **BILL HISTORY**

2 1/28/99 First read in Senate and referred to State Affairs. S.J. 235

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

4 2/3/99 State Affairs Do Pass, Passed, AYES 9, NAYS 0. S.J. 312

5 2/4/99 Senate Deferred to another day. S.J. 341

6 2/8/99 Senate Deferred to another day. S.J. 372

7 2/12/99 Senate Do Pass, Failed, AYES 16, NAYS 18. S.J. 485

8 2/12/99 Intent to reconsider. S.J. 485

9 2/16/99 Senate Reconsidered, AYES 24, NAYS 10. S.J. 497

10 2/16/99 Motion to Amend, Passed. S.J. 498

11 2/16/99 Senate Do Pass Amended, Passed, AYES 18, NAYS 17. S.J. 498

12 2/16/99 Senate Title Amended Passed. S.J. 499