

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

753C0374

SENATE ENGROSSED NO. **HB1151** - 3/3/99

Introduced by: Representatives Cutler and Haley and Senators Rounds and Hutmacher

1 FOR AN ACT ENTITLED, An Act to revise the property tax levies for the general fund of a
2 school district.

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

4 Section 1. That § 10-12-42 be amended to read as follows:

5 10-12-42. For taxes payable in ~~1999~~ 2000 and each year thereafter, the levy for the general
6 fund of a school district shall be as follows:

7 (1) The maximum tax levy shall be sixteen dollars and ~~twenty-five~~ fifteen cents per
8 thousand dollars of taxable valuation subject to the limitations on agricultural property
9 as provided in subdivision (2) of this section, owner-occupied property as provided
10 for in subdivision (3) of this section, and nonagricultural acreage property as provided
11 for in subdivision (4);

12 (2) The maximum tax levy on agricultural property for such school district shall be four
13 dollars and ~~seventy-three~~ seventy cents per thousand dollars of taxable valuation. If
14 the district's levies are less than the maximum levies as stated in chapter 10-13, the
15 levies shall maintain the same proportion to each other as represented in the
16 mathematical relationship at the maximum levies;

1 (3) The maximum tax levy for an owner-occupied single-family dwelling as defined in
2 § 10-13-40, for such school district may not exceed seven dollars and ~~sixty-one~~ fifty-
3 six cents per thousand dollars of taxable valuation. If the district's levies are less than
4 the maximum levies as stated in chapter 10-13, the levies shall maintain the same
5 proportion to each other as represented in the mathematical relationship at the
6 maximum levies;

7 (4) The maximum tax levy on nonagricultural acreage property as defined in
8 § 10-6-33.14, for such school district shall be ~~six~~ five dollars and ~~sixty-six~~ seventy
9 cents per thousand dollars of taxable valuation. If the district's levies are less than the
10 maximum levies as stated in chapter 10-13, the levies shall maintain the same
11 proportion to each other as represented in the mathematical relationship at the
12 maximum levies.

13 All levies in this section shall be imposed on valuations where the median level of assessment
14 represents eighty-five percent of market value as determined by the Department of Revenue.
15 These valuations shall be used for all school funding purposes. If the district has imposed an
16 excess levy pursuant to § 10-12-43, the levies shall maintain the same proportion to each other
17 as represented in the mathematical relationship at the maximum levies in this section. The school
18 district may elect to tax at less than the maximum amounts set forth in this section.

1 **BILL HISTORY**

2 1/25/99 First read in House and referred to Taxation. H.J. 174

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

4 1/28/99 Taxation Do Pass, Passed, AYES 13, NAYS 0. H.J. 234

5 1/29/99 House of Representatives Do Pass, Passed, AYES 66, NAYS 0. H.J. 271

6 2/1/99 First read in Senate and referred to Taxation. S.J. 289

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

8 2/17/99 Taxation Do Pass, Passed, AYES 9, NAYS 0. S.J. 518

9 2/18/99 Senate Deferred to another day. S.J. 573

10 2/25/99 Senate Deferred to another day. S.J. 688

11 3/2/99 Motion to Amend, Passed. S.J. 741

12 3/2/99 Senate Do Pass Amended, Passed, AYES 35, NAYS 0. S.J. 741

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

226C0443

SENATE ENGROSSED NO. **HB1178** - 3/3/99

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 Terms used in chapter 13-37 mean:

11 (1) "Level one disability," a mild disability;

12 (2) "Level two disability," a mental retardation or emotional disorder;

13 (3) "Level three disability," hearing impairment, deafness, visual impairment, deaf-
14 blindness, orthopedic impairment, or traumatic brain injury;

15 (4) "Level four disability," autism;

16 (5) "Level five disability," multiple disabilities;

17 (6) "Index factor," is the annual percentage change in the consumer price index for urban
18 wage earners and clerical workers as computed by the Bureau of Labor Statistics of
19 the United States Department of Labor for the year before the year immediately
20 preceding the year of adjustment or three percent, whichever is less;

21 (7) "Local effort," is the amount of taxes payable each year, using a levy for the special
22 education fund of a school district of one dollar and thirty-five cents per thousand
23 dollars of taxable valuation;

24 (8) "Allocation for a student with a level one disability," for the school fiscal year
25 beginning July 1, 1999, is \$3,504. For each school year thereafter, the allocation for

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

3 (9) "Allocation for a student with a level two disability," for the school fiscal year
4 beginning July 1, 1999, is \$7,914. For each school year thereafter, the allocation for
5 a student with a level two disability shall be the previous fiscal year's allocation for
6 such child increased by the lesser of the index factor or three percent;

7 (10) "Allocation for a student with a level three disability," for the school fiscal year
8 beginning July 1, 1999, is \$10,116. For each school year thereafter, the allocation for
9 a student with a level three disability shall be the previous fiscal year's allocation for
10 such child increased by the lesser of the index factor or three percent;

11 (11) "Allocation for a student with a level four disability," for the school fiscal year
12 beginning July 1, 1999, is \$14,705. For each school year thereafter, the allocation for
13 a student with a level four disability shall be the previous fiscal year's allocation for
14 such child increased by the lesser of the index factor or three percent;

15 (12) "Allocation for a student with a level five disability," for the school fiscal year
16 beginning July 1, 1999, is \$15,808. For each school year thereafter, the allocation for
17 a student with a level five disability shall be the previous fiscal year's allocation for
18 such child increased by the lesser of the index factor or three percent;

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

23 (14) "Resident average daily membership," the average number of resident kindergarten
24 through twelfth grade pupils enrolled in all schools operated by the school district
25 during the previous regular school year plus the average number of pupils for whom

1 the district pays tuition and plus the average number of resident pupils enrolled in
2 another school district under the provisions of § 13-28-40;

3 (15) "Nonpublic school," a sectarian organization or entity which is accredited by the
4 secretary of education and cultural affairs for the purpose of instructing children of
5 compulsory school age. This definition excludes any school that receives a majority
6 of its revenues from public funds;

7 (16) "Nonpublic average daily membership," the average number of kindergarten through
8 twelfth grade pupils enrolled during the previous regular school year in all nonpublic
9 schools located within the boundaries of the public school district plus the average
10 number of children under age sixteen who are approved for alternative instruction
11 pursuant to § 13-27-2 during the previous school year;

12 (17) "Special education average daily membership," resident average daily membership
13 plus nonpublic average daily membership;

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

15 (a) Multiply the special education average daily membership by 0.089 and multiply
16 the result by the allocation for a student with a level one disability;

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

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

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

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

4 (f) Sum the results of (a) through (e);

5 (19) "Effort factor," the school district's special education tax levy in dollars per thousand
 6 divided by \$1.35. The maximum effort factor is 1.0.

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

8 ~~13-37-36. The secretary of the Department of Education and Cultural Affairs shall compute~~
 9 ~~state aid for special education for each school district according to the following calculations:~~

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

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

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

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

14 ~~or~~

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

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

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

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

21 (2) State aid for special education is:

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

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

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

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

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

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

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

14 For the transition period from school fiscal year 2000 through school fiscal year 2003, state
15 aid for special education shall be determined according to the following calculations:

- 16 (1) Multiply local need of a school district by 0.96 in school fiscal year 2000, 0.97 in
17 school fiscal year 2001, 0.98 in school fiscal year 2002, and 0.99 in school fiscal year
18 2003;
- 19 (2) After making the adjustment to local need pursuant to subdivision (1) of this section,
20 calculate state aid for special education pursuant to section 4 of this Act;
- 21 (3) Subtract the result of subdivision (2) from the amount of state aid received pursuant
22 to § 13-37-36 or 13-37-43 in school fiscal year 1999;
- 23 (4) Multiply the result of subdivision (3) by 0.80 in school fiscal year 2000, 0.60 in school
24 fiscal year 2001, 0.40 in school fiscal year 2002, and 0.20 in school fiscal year 2003;
- 25 (5) Add the result of subdivision (2) to the result of subdivision (4);

1 (6) State aid for special education is the greater of the result of subdivision (2) or the
2 result of subdivision (5).

3 Section 8. That § 13-37-44 be amended to read as follows:

4 13-37-44. A school district's state aid for special education as calculated pursuant to section
5 4 or section 7 of this Act shall be reduced by the amount which its ending special education fund
6 balance exceeds twenty percent of its special education expenditures for the prior fiscal year or
7 fifty thousand dollars, whichever is greater, if the school district did not receive money set aside
8 in §§ ~~13-37-38 to 13-37-40, inclusive~~, during the prior fiscal year; or the amount which its
9 ending special education fund balance exceeds five percent of its special education expenditures
10 for the prior fiscal year if the school district received money set aside in §§ 13-37-38 to
11 13-37-40, inclusive, during the prior fiscal year.

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

14 In addition to the purposes specified in § 13-37-40, money set aside pursuant to § 13-37-40
15 may be used by the Department of Education and Cultural Affairs to establish and maintain a
16 program to assist school districts with legal matters relating to special education, to employ
17 personnel to audit school districts for compliance with the provisions of this Act, to establish and
18 maintain state protocols to assist school districts in developing individualized education plans,
19 or to purchase assistive technology for students with a level two, three, four, or five disability.

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

22 For the purpose of calculating state aid pursuant to this chapter, a level five disability must
23 meet criteria for at least two disability categories in levels two and three, excluding the disability
24 of deaf-blindness. Any child reported on the child count between ages three to five years old,
25 inclusive, may not be included as either a level two, three, four, or five disability.

1 Section 11. The Department of Education and Cultural Affairs may promulgate rules
2 pursuant to chapter 1-26 to define the various disabilities in this Act.

3 Section 12. Section 9 of this Act is effective June 15, 1999.

1 **BILL HISTORY**

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

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

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

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

6 2/18/99 Education Do Pass Amended, Passed, AYES 11, NAYS 2. H.J. 600

7 2/19/99 House of Representatives Placed on Calendar. H.J. 645

8 2/22/99 Motion to Amend, Passed. H.J. 683

9 2/22/99 House of Representatives Do Pass Amended, Passed, AYES 52, NAYS 18. H.J. 688

10 2/23/99 First read in Senate and referred to State Affairs. S.J. 645

11 2/26/99 Scheduled for Committee hearing on this date.

12 2/26/99 State Affairs Do Pass Amended, Passed, AYES 8, NAYS 1. S.J. 703

13 3/2/99 Motion to Amend, Passed. S.J. 739

14 3/2/99 Senate Do Pass Amended, Passed, AYES 32, NAYS 3. S.J. 740

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

235C0610

SENATE ENGROSSED NO. **HB1184** - 3/3/99

Introduced by: Representatives Chicoine and Broderick and Senator Albers

1 FOR AN ACT ENTITLED, An Act to allow for the transfer of Harmony Hill to the State of
2 South Dakota.

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

4 Section 1. The Governor, pursuant to § 5-24-12, is hereby authorized to accept, on behalf
5 of the State of South Dakota, the transfer of the former Harmony Hill girls school from the
6 Benedictine Sisters.

1 **BILL HISTORY**

2 1/27/99 First read in House and referred to Education. H.J. 209

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

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

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

6 2/9/99 Education Do Pass Amended, Passed, AYES 12, NAYS 1. H.J. 431

7 2/11/99 House of Representatives Do Pass Amended, Passed, AYES 65, NAYS 2. H.J. 494

8 2/12/99 First read in Senate and referred to Education. S.J. 487

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

10 2/25/99 Education Do Pass, Passed, AYES 6, NAYS 0. S.J. 675

11 2/26/99 Senate Deferred to another day. S.J. 702

12 3/1/99 Senate Deferred to another day. S.J. 725

13 3/2/99 Senate Deferred to another day. S.J. 744

14 3/3/99 Motion to Amend, Passed.

15 3/3/99 Senate Do Pass Amended, Passed, AYES 34, NAYS 0.

16 3/3/99 Senate Title Amended Passed.

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

176C0870

SENATE ENGROSSED NO. **HB1292** - 3/3/99

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

Introduced by: Representative Eccarius

1 FOR AN ACT ENTITLED, An Act to integrate state telecommunications, to reconstitute and
2 continue the 911 task force, to regulate the forming of new public safety answering points,
3 and to provide for state contracting of certain emergency communication services.

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

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

7 The functions of State Radio Communications, including its budget funds and FTE
8 allocation, is hereby transferred from the Office of the Attorney General to the Bureau of
9 Information and Telecommunications.

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

12 The State of South Dakota shall by July 1, 2001, integrate telecommunications functions and
13 facilities of those state agencies, which currently operate their own systems, into one cohesive
14 and integrated network. These agencies currently include State Radio Communications; the
15 Bureau of Information and Telecommunications; the Division of Emergency Management in the
16 Department of Military and Veterans Affairs; Public Broadcasting in the Bureau of Information

1 and Telecommunications; the Department of Game, Fish and Parks; the Department of
2 Transportation; the Division of Forestry in the Department of Agriculture; and the Highway
3 Patrol in the Department of Commerce and Regulation. The Bureau of Information and
4 Telecommunications shall be responsible for development of a state agency integration plan by
5 November 1, 1999.

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

8 The South Dakota 911 Coordinated Statewide System Task Force created pursuant to § 34-
9 45-18 is hereby continued and shall be expanded to include at least one representative from each
10 of the following groups: the South Dakota Chapter of the Association of Public Safety
11 Communication Officials, the South Dakota Chapter of National Emergency Numbers
12 Association, the South Dakota Emergency Management Association, the South Dakota
13 Emergency Medical Technicians Association, the South Dakota Firefighters Association, the
14 South Dakota Association of County Commissioners, the South Dakota Municipal League, the
15 South Dakota Police Chiefs Association, the South Dakota Sheriffs Association, and at least one
16 member from an operating public safety answering point system. The task force shall conduct
17 public hearings to develop and recommend standards for operation and utilization of public
18 safety answering points.

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

21 The task force shall develop a set of minimum technical, operational, and procedural
22 standards for the operation and utilization of a public safety answering point.

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

25 Each public safety answering point shall obtain a full audit report on 911 traffic from its

1 telephone service provider and provide that information to the task force for use in the
2 preparation of the standards. Each public safety answering point shall provide the audit report
3 to the task force no later than August 2, 1999.

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

6 Beginning on the effective date of this Act, no new public safety answering points may be
7 established, unless they include two or more local government entities. Nothing in this section
8 prohibits an unserved area from contracting or joining with an existing public safety answering
9 point.

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

12 The state may contract with any existing public safety answering point to provide emergency
13 services pursuant to the joint powers provisions of chapter 1-24.

14 Section 8. That § 1-13-1 be amended to read as follows:

15 1-13-1. ~~The attorney general is authorized and empowered to~~ Bureau of Information and
16 Telecommunications may purchase the necessary apparatus and equipment to construct or
17 establish a ~~radio~~ broadcasting station at the state capitol at Pierre, South Dakota, which
18 broadcasting station shall be used solely for the transmission of state business and information.
19 ~~The attorney general is further authorized and empowered to~~ bureau may also purchase low
20 ~~wave radio~~ receiving sets in such quantities as may be most economical ~~and to equip with low~~
21 ~~wave radio receiving sets all state-owned cars used by the agents in his department, such road~~
22 ~~maintainers as he shall determine advisable, the state penitentiary and such other places as may~~
23 ~~furnish to facilitate~~ the speedy transmission of messages and state information.

24 The ~~attorney general~~ bureau is charged with the operation and maintenance of ~~said radio~~ the
25 broadcasting station.

1 Section 9. That § 1-13-2 be amended to read as follows:

2 1-13-2. The ~~attorney general is hereby authorized and empowered to~~ Bureau of Information
3 and Telecommunications may locate, construct, establish, equip and maintain such towers,
4 repeater stations and subheadquarters as may be necessary, and for such purpose may acquire
5 by purchase, lease or condemnation all necessary sites and locations in order to install, establish,
6 and operate a state ~~radio~~ communications system as provided by this chapter.

7 Section 10. That § 1-13-3 be amended to read as follows:

8 1-13-3. The ~~attorney general is authorized to~~ Bureau of Information and
9 Telecommunications may employ such ~~radio~~ operators and assistants and such ~~radio~~ equipment
10 ~~as he may deem~~ necessary to carry out the provisions of this chapter. The costs of maintaining
11 and the operation of a state ~~radio~~ communications system and all ~~short wave length radio~~
12 receiving sets owned or operated by the ~~department of the attorney general~~ bureau shall be paid
13 out of the appropriation for ~~this division of such department~~ bureau.

14 Section 11. That § 1-13-5 be amended to read as follows:

15 1-13-5. The ~~attorney general is authorized and empowered to~~ Bureau of Information and
16 Telecommunications may apply for, accept and expend on behalf of the state ~~radio~~
17 communications system any appropriations, grants, matching funds, or moneys allotted to the
18 state of South Dakota by the federal government pursuant to any act of Congress of the United
19 States. The funds so received by the state of South Dakota shall be administered and expended
20 under the supervision of the ~~attorney general~~ bureau to purchase the necessary apparatus and
21 equipment for new construction and equipment improvements in the state ~~radio~~ communications
22 system. Such funds shall be deposited in the state treasury to be paid out on warrants drawn by
23 the state auditor on vouchers approved by the ~~attorney general~~ commissioner of the bureau.

24 Section 12. That § 1-13-6 be amended to read as follows:

25 1-13-6. Each county within the state shall furnish to its sheriff and deputy sheriff a ~~short~~

1 ~~wave length radio~~ receiving set which shall be maintained at the expense of the county, and
2 which shall be paid for and shall be the property of the county. All automobiles used by police
3 officers of any municipality, whether publicly or privately owned, shall be equipped with ~~short~~
4 ~~wave length radio~~ receiving sets at the expense of such municipality. The ~~attorney general shall~~
5 ~~have the authority to~~ Bureau of Information and Telecommunications may sell to any county,
6 municipality ~~short wave length radio~~ receiving sets purchased by ~~his department as hereinbefore~~
7 ~~provided the bureau,~~ without any profit to the state or to ~~his department~~ the bureau and the funds
8 received from such sale shall be credited by the state treasurer to the ~~department of the attorney~~
9 ~~general~~ bureau.

10 Section 13. That § 1-13-7 be amended to read as follows:

11 1-13-7. Every sheriff, deputy sheriff, police officer, or other person securing a ~~short wave~~
12 ~~length radio~~ receiving set under the provisions ~~hereof~~ of this chapter, shall make a report to the
13 ~~attorney general~~ Bureau of Information and Telecommunications at such times and containing
14 such information as ~~said attorney general~~ the bureau shall ~~by regulation require~~ require by rules
15 promulgated pursuant to chapter 1-26.

16 Section 14. That § 1-13-8 be amended to read as follows:

17 1-13-8. ~~It shall be the duty of the attorney general to~~ The Bureau of Information and
18 Telecommunications shall broadcast all police dispatches and reports submitted, which ~~in his~~
19 ~~opinion shall~~ have a reasonable relation to, or connection with, the apprehension of criminals,
20 the prevention of crime, or the maintenance of peace and order in the state. ~~He~~ The bureau shall
21 also broadcast any other statement or report upon request of any constitutional officer, or the
22 head of any state department, providing such message relates to state business.

1 **BILL HISTORY**

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

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

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

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

6 2/19/99 House of Representatives Placed on Calendar. H.J. 645

7 2/22/99 House of Representatives Do Pass Amended, Failed, AYES 33, NAYS 35. H.J. 678

8 2/22/99 Intent to reconsider. H.J. 678

9 2/22/99 House of Representatives Reconsidered, AYES 43, NAYS 27. H.J. 682

10 2/22/99 House of Representatives Do Pass Amended, Passed, AYES 42, NAYS 28. H.J. 683

11 2/23/99 First read in Senate and referred to State Affairs. S.J. 645

12 2/26/99 Scheduled for Committee hearing on this date.

13 2/26/99 State Affairs Deferred to 41st legislative day, AYES 8, NAYS 1. S.J. 710

14 3/1/99 State Affairs Reconsidered, AYES 6, NAYS 1.

15 3/1/99 State Affairs Do Pass Amended, Passed, AYES 6, NAYS 1. S.J. 715

16 3/3/99 Motion to Amend, Passed.

17 3/3/99 Senate Do Pass Amended, Passed, AYES 26, NAYS 9.

18 3/3/99 Senate Title Amended Passed.

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

400C0825

SENATE ENGROSSED NO. **HB1298** - 3/3/99

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 revise certain provisions regarding contract negotiations
2 by certain public employees.

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

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

5 3-18-3. Representatives designated or selected for the purpose of formal representation by
6 the majority of the employees in a unit appropriate for such purposes shall be the exclusive
7 representatives of all employees in such unit for the purpose of representation in respect to rates
8 of pay, wages, hours of employment, or other conditions of employment; provided that salary
9 increases for Board of Regents' faculty and exempt staff may only be distributed to address
10 institutional priorities, program needs, performance meeting or exceeding expectations, or
11 internal or external market considerations. Notwithstanding any other provision of this section,
12 any individual employee, or a group of employees, shall have the right at any time to present
13 grievances to their employer and to have such grievances adjusted without the intervention of
14 the formal representative as long as the adjustment is not inconsistent with the terms of any
15 settlement with the formal representative then in effect, ~~and~~; provided that the formal
16 representative has been given opportunity to be present at such adjustment.

1 Section 2. That chapter 13-49 be amended by adding thereto a NEW SECTION to read as
2 follows:

3 All negotiations pursuant to § 3-18-3 for salary policy undertaken pursuant to this chapter
4 that have not been settled by April fifteenth of any given year shall be deemed to be at impasse.

1 **BILL HISTORY**

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

3 2/2/99 Referred to State Affairs. H.J. 319

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

5 2/8/99 State Affairs Do Pass, Failed, AYES 5, NAYS 8.

6 2/8/99 State Affairs Deferred to another day.

7 2/10/99 Scheduled for Committee hearing on this date.

8 2/12/99 State Affairs Hog Housed.

9 2/12/99 State Affairs Do Pass Amended, Passed, AYES 11, NAYS 0. H.J. 506

10 2/17/99 House of Representatives Deferred to another day. H.J. 587

11 2/18/99 House of Representatives Do Pass Amended, Passed, AYES 65, NAYS 3. H.J. 620

12 2/22/99 First read in Senate and referred to Appropriations. S.J. 620

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

14 2/26/99 Appropriations Do Pass Amended, Passed, AYES 7, NAYS 0. S.J. 694

15 3/2/99 Motion to Amend, Passed. S.J. 743

16 3/2/99 Senate Deferred to another day. S.J. 744

17 3/3/99 Motion to Amend, Passed.

18 3/3/99 Senate Do Pass Amended, Passed, AYES 24, NAYS 11.

19 3/3/99 Senate Title Amended Passed.

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

547C0803

SENATE COMMERCE COMMITTEE ENGROSSED NO.

HB1302 - 2/26/99

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

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

1 FOR AN ACT ENTITLED, An Act to prohibit certain deceptive advertising practices.

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

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

5 Knowingly advertise or cause to be listed through the internet or in a telephone directory a
6 business address that misrepresents where the business is actually located or that falsely states
7 that the business is located in the same area covered by the telephone directory. This subdivision
8 does not apply to a telephone service provider, an internet service provider, or a publisher or
9 distributor of a telephone directory, unless the conduct proscribed in this subdivision is on behalf
10 of the provider, publisher, or distributor.

1 **BILL HISTORY**

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

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

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

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

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

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

8 2/18/99 Commerce Do Pass Amended, Passed, AYES 13, NAYS 0. H.J. 594

9 2/19/99 Commerce Hog Housed.

10 2/22/99 House of Representatives Do Pass Amended, Passed, AYES 69, NAYS 0. H.J. 664

11 2/22/99 House of Representatives Title Amended Passed. H.J. 665

12 2/22/99 First read in Senate and referred to Commerce. S.J. 632

13 2/25/99 Scheduled for Committee hearing on this date.

14 2/25/99 Commerce Do Pass Amended, Passed, AYES 7, NAYS 0. S.J. 674

15 2/25/99 Commerce Place on Consent Calendar.

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

525C0873

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HCR1012** - 3/3/99

Introduced by: Representatives Weber, Cerny, Chicoine, Crisp, Haley, Koehn, Koetzle, Kooistra, Lockner, and Sutton (Daniel) and Senators Kloucek, Dennert, Hutmacher, and Lange

1 A CONCURRENT RESOLUTION, Calling upon the United States Department of Justice to
2 investigate collusive practices in the midwestern food processing industries.

3 WHEREAS, recent federal studies of the cattle and hog industries have shown that the
4 strategic use of captive supply procurement methods by meatpacking corporations are associated
5 with reductions in cash market prices for cattle, indicating possible illegal manipulation of prices;
6 and

7 WHEREAS, recent federal studies of the pork packing industry have shown that
8 meatpacking corporations have voluntarily reported prices that did not reflect actual transaction
9 prices, indicating possible deceptive practices; and

10 WHEREAS, further federal studies indicate that base prices and premiums paid by
11 meatpacking corporations increase with producer size, indicating possible discriminatory
12 practices and undue preferential treatment of producers; and

13 WHEREAS, the proposed purchase of the grain operations of the Continental Grain
14 Company by Cargill, Incorporated, will limit the marketing opportunities of midwestern grain
15 producers and open the door to possibly illegal market manipulation and discriminatory

1 practices:

2 NOW, THEREFORE, BE IT RESOLVED, by the House of Representatives of the Seventy-
3 fourth Legislature of the State of South Dakota, the Senate concurring therein, that the United
4 States Department of Justice is requested to send senior investigative and administrative
5 personnel to a convenient midwestern location to meet with farmers and others with experience
6 in dealing with meatpacking and grain processing corporations to discuss possible violations of
7 antitrust and other laws in those industries; and that the United States Department of Justice is
8 requested to open an investigation of possible antitrust violations in the midwestern meatpacking,
9 grain processing, and grain storage industries; and that the United States Department of Justice
10 is requested to develop a plan for immediate, aggressive, and comprehensive enforcement of the
11 federal Packers and Stockyards Act and other laws designed to preserve competition and open
12 markets in the midwestern grain and livestock industries.

1 **BILL HISTORY**

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

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

4 3/1/99 State Affairs Adopt Resolution as Amended, AYES 7, NAYS 6. H.J. 838

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

660C0902

HOUSE AGRICULTURE AND NATURAL RESOURCES COMMITTEE ENGROSSED NO. **HCR1018** - 3/3/99

Introduced by: Representatives Kazmerzak, Burg, Chicoine, Fischer-Clemens, Haley, Koehn, Lintz, Lucas, McIntyre, Nachtigal, Sutton (Daniel), Volesky, Waltman, and Weber and Senators Kloucek, Hutmacher, Lange, and Vitter

1 A CONCURRENT RESOLUTION, Calling upon the United States Congress and the
2 Legislatures of Minnesota, South Dakota, Iowa, and Nebraska to assist in the development
3 of locally-owned facilities for meat and grain processing.

4 WHEREAS, there is a long-standing and well-documented need for economic development
5 in the rural communities of the United States and our respective states; and

6 WHEREAS, the most sensible form of economic development uses the existing resources
7 of the local area where the development is to take place; and

8 WHEREAS, the independent family farmers of our respective states and the United States
9 need additional outlets for the produce of their farms; and

10 WHEREAS, there has been a demonstrated and well-documented reduction in the livestock
11 processing capacity of the United States; and

12 WHEREAS, we can best assure that livestock and grain processing facilities will remain open
13 and operating in our states by providing for local ownership of those facilities:

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

1 Dakota Legislature calls upon the Congress of the United States and the Legislatures of
2 Minnesota, Iowa, and Nebraska to enact legislation to further the development of locally-owned
3 livestock and grain processing and storage facilities in the rural communities of the Midwest; to
4 assist in the development of such facilities through low-interest loans, appropriate tax relief, and
5 any necessary changes in state or federal laws to enhance interstate sales and transportation of
6 the products of these processing facilities; to provide a system of financial assistance for the
7 marketing of the products of locally-owned processing facilities; and to assist in the development
8 of marketing strategies that focus on the wholesomeness, health benefits, and environmental
9 benefits of meat and grain products raised by independent family farmers and prepared for retail
10 sale by locally-owned processing facilities.

1 **BILL HISTORY**

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

3 3/2/99 Agriculture and Natural Resources Adopt Resolution as Amended, AYES 12, NAYS 0.

4 H.J. 839

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

400C0265

HOUSE STATE AFFAIRS COMMITTEE

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

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. H.J. 838

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

419C0698

HOUSE STATE AFFAIRS COMMITTEE

ENGROSSED NO. **SB200** - 3/3/99

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. H.J. 831

15 3/2/99 State Affairs Hog Housed.

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

400C0757

HOUSE STATE AFFAIRS COMMITTEE

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

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. H.J. 832

19 3/2/99 State Affairs Hog Housed.

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

318C0394

HOUSE AGRICULTURE AND NATURAL RESOURCES COMMITTEE ENGROSSED NO.

SCR4 - 3/3/99

Introduced by: Senators Kloucek, Benson, Dennert, Dunn (Rebecca), Duxbury, Flowers, Hutmacher, Kleven, Olson, Shoener, Symens, and Vitter and Representatives Weber, Apa, Brown (Jarvis), Chicoine, Crisp, Duenwald, Engbrecht, Fischer-Clemens, Fryslie, Haley, Hanson, Kazmerzak, Koehn, Kooistra, Koskan, Lintz, Lockner, Lucas, McIntyre, Munson (Donald), Nachtigal, Napoli, Patterson, Slaughter, Waltman, Wetz, and Wilson

1 A CONCURRENT RESOLUTION, Requesting certain actions by the federal government to
2 protect the agricultural economy of the United States

3 WHEREAS, ongoing depressed prices at the marketplace for agricultural products have
4 created an economic emergency for rural America; and

5 WHEREAS, an investigation into the causes of the crisis in the agricultural economy,
6 including a full investigation of market competitiveness in livestock and crops and a
7 reexamination of trade agreements is warranted and necessary; and

8 WHEREAS, action is necessary at the federal state level to stabilize this nation's food
9 producers, main street businesses, and rural America as a whole:

10 NOW, THEREFORE, BE IT RESOLVED, by the Senate of the Seventy-fourth Legislature
11 of the State of South Dakota, the House of Representatives concurring therein, that the South
12 Dakota Legislature requests the following actions by the Congress and the executive agencies
13 of the federal government:

- 1 (1) The establishment of an emergency price support and safety net system for all United
2 States agricultural products;
- 3 (2) The commencement of vigorous antitrust investigations into the concentration of
4 ownership in meat packing, grain handling, and retail agricultural operations;
- 5 (3) A block of the proposed Cargill-Continental Grain merger;
- 6 (4) Country-of-origin labeling of meat and meat products and a limitation of the USDA
7 label to United States production;
- 8 (5) Mandatory price reporting for livestock and grain;
- 9 (6) Shift the responsibility for the regulation of packers and stockyards and enforcement
10 of the Packers and Stockyards Act from the United States Department of Agriculture
11 to the Justice Department;
- 12 (7) Inspections of imported agricultural products to ensure that such products have met
13 standards equivalent to United States standards for food safety and environmental and
14 worker protection; and
- 15 (8) Actions to ensure that farm and ranch producer interests are represented at the 1999
16 World Trade Organization negotiations; and

17 BE IT FURTHER RESOLVED, that an emergency price support and safety net system be
18 put in place and lifted only when international and domestic markets are reformed in such a
19 manner that they are open, public, and competitive; and domestic prices are above the cost of
20 production as calculated by the United States Department of Agriculture.

1 **BILL HISTORY**

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

3 2/12/99 State Affairs Adopt Resolution, AYES 7, NAYS 2. S.J. 474

4 2/16/99 Senate Adopt Resolution, AYES 32, NAYS 3. S.J. 495

5 2/17/99 First read in House and referred to Agriculture and Natural Resources. H.J. 570

6 2/23/99 Scheduled for Committee hearing on this date.

7 2/25/99 Agriculture and Natural Resources Deferred to another day.

8 2/25/99 Scheduled for Committee hearing on this date.

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

10 3/2/99 Concurred in resolution as amended, AYES 7, NAYS 5. H.J. 840