

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

197D0491

HOUSE STATE AFFAIRS COMMITTEE

ENGROSSED NO. **HB1081** - 1/26/00

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

Introduced by: Representatives Brown (Richard), Brooks, Chicoine, Cutler, Davis, Derby, Diedtrich (Elmer), Fiegen, Fischer-Clemens, Hennies, Jaspers, McCoy, Michels, Peterson, and Sutton (Daniel) and Senators Shoener, Daugaard, Hutmacher, Kloucek, Madden, Olson, Paisley, and Rounds

1 FOR AN ACT ENTITLED, An Act to allow equitable relief if certain public contracts are found
2 void.

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

4 Section 1. That § 5-18-19 be amended to read as follows:

5 5-18-19. It ~~shall be~~ is unlawful for any public corporation or its officers to enter into any
6 contract in violation of the terms of this chapter or chapter 5-21, and any such contract entered
7 into ~~shall be~~ is null and void and of no force and effect. Nothing in this section prohibits the court
8 from applying the doctrine of equitable estoppel. If the contractor affirmatively establishes
9 grounds to apply the doctrine of equitable estoppel, the court may award the contractor some
10 or all of the actual costs incurred in performing the contract.

1 **BILL HISTORY**

2 1/15/00 First read in House and referred to State Affairs. H.J. 56

3 1/24/00 Scheduled for Committee hearing on this date.

4 1/24/00 State Affairs Do Pass Amended, Passed, AYES 12, NAYS 1. H.J. 218

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

382D0339

HOUSE COMMERCE COMMITTEE ENGROSSED NO. **HB1092** - 1/26/00

Introduced by: Representatives Konold, Brown (Jarvis), Crisp, Diedtrich (Elmer), Pummel, Smidt, and Wetz and Senators Madden and Brosz

1 FOR AN ACT ENTITLED, An Act to provide for the regulation of home inspectors.

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

3 Section 1. Terms used in this Act mean:

4 (1) "Client," any person who engages, or seeks to engage, the services of a home
5 inspector for the purpose of obtaining inspection of and written report upon the
6 condition of a residential building;

7 (2) "Commission," the South Dakota Real Estate Commission;

8 (3) "Home inspector," any person registered or licensed as a home inspector pursuant to
9 the provisions of this Act;

10 (4) "Home inspection," an inspection and written evaluation of all the following
11 components of a residential building: heating system, cooling system, plumbing
12 system, electrical system, structural components, foundation, roof, masonry structure,
13 and exterior and interior components;

14 (5) "Residential building," a structure consisting of not more than four family dwelling
15 units.

16 Section 2. The commission shall issue and renew certificates to licensed and registered home

1 inspectors pursuant to the provisions of this Act.

2 Section 3. No person may provide, or hold oneself out as able to provide, a home inspection
3 for compensation unless registered or licensed in accordance with the provisions of this Act. A
4 violation of this section is a Class 1 misdemeanor.

5 Section 4. An applicant for a license as a home inspector shall file a written application
6 provided by the commission showing that the applicant meets the following requirements:

- 7 (1) Good moral character;
- 8 (2) Successful completion of high school or high school equivalency;
- 9 (3) Employment as a registered home inspector for no less than one year and performance
10 of not less than one hundred home inspections for compensation; and
- 11 (4) Successful completion of a licensing examination approved by the commission.

12 Section 5. An applicant for registration as a home inspector shall file a written application
13 provided by the commission showing that the applicant meets the following requirements:

- 14 (1) Good moral character;
- 15 (2) Successful completion of high school or high school equivalency;
- 16 (3) Successful completion of an approved course of study of not less than forty hours, as
17 prescribed by the commission in rules promulgated pursuant to chapter 1-26; and
- 18 (4) Successful completion of a registration examination approved by the commission.

19 Section 6. The commission shall promulgate rules pursuant to chapter 1-26 for licensed and
20 registered home inspectors in the following areas:

- 21 (1) Standards and requirements for prelicense and continuing education, including
22 qualifications of instructors, procedures for granting a certificate of accreditation,
23 notification of a material change in an approved course offering, suspension,
24 revocation, and denial of course approval, certification of attendance, preregistration,
25 and hours required to renew a license or registration;

- 1 (2) A code of ethics and standards of practice;
- 2 (3) Fees for applications, examinations, registration, licensure, and renewals, not to
3 exceed four hundred dollars for application and two hundred dollars for renewal;
- 4 (4) Procedures and qualifications for application, minimum requirements for examination,
5 procedures for the examination and the administration of the examination, the
6 required score for passing the examination, and procedures for replacement of a
7 license;
- 8 (5) Procedures for disciplinary proceedings, including requirements for filing a complaint,
9 dismissal of a complaint, informal and formal resolution of a complaint, formal
10 complaint and answer requirements, final action and review, disqualification of a
11 commission member from a hearing, and authorization for per diem and mileage; and
- 12 (6) Procedures for declaratory rulings, petitions for rules, and contested cases.

13 Section 7. The provisions of this Act do not apply to any of the following persons:

- 14 (1) Any person who is employed as a code enforcement official by the state or a political
15 subdivision of the state when acting within the scope of that governmental
16 employment;
- 17 (2) Any person regulated by the state as an architect, professional engineer, electrical
18 contractor, or plumber, who is acting within the scope of practice of the person's
19 profession or occupation;
- 20 (3) Any real estate broker or salesperson licensed by the state when acting within the
21 scope of that person's license;
- 22 (4) Any real estate appraiser certified, licensed, or registered by the state when acting
23 within the scope of that person's license;
- 24 (5) Any person engaged as an insurance adjuster, when acting within the scope of that
25 person's profession; or

1 (6) Any manufactured home dealer who is licensed by the state, when acting within the
2 scope of that person's license.

3 Section 8. Upon payment to the commission of a fee and the submission of a written
4 application provided by the commission, the commission may issue a home inspector license to
5 any person who holds a valid license issued by another state or possession of the United States
6 or the District of Columbia which has standards substantially equivalent to those of this state,
7 as determined by the commission.

8 Section 9. During the first three hundred sixty-five days after the effective date of this Act,
9 the commission shall issue to any person, upon application, a home inspector license, if the
10 applicant meets the requirements of subdivisions (1), (2), and (4) of section 4 of this Act and has
11 been engaged in the practice of home inspections for compensation for not less than one year
12 prior to the effective date of this Act and has performed not less than one hundred home
13 inspections for compensation.

14 Section 10. Any license or registration expires on December thirty-first of the year following
15 issuance and may be renewed biennially. An application for renewal shall be filed with the
16 commission no later than November thirtieth of the year of expiration. Any renewal application
17 filed after that date is subject to a late renewal penalty of twenty dollars per month or fraction
18 thereof. However, no late renewal may be filed after June thirtieth of the year following the
19 expiration of the registration or license.

20 Section 11. The commission may suspend, revoke, reprimand, or assess a monetary penalty
21 not to exceed two thousand five hundred dollars, or may provide for a combination or
22 revocation, suspension, reprimand, or monetary penalty, for any violation of this Act or any
23 administrative rule adopted to administer this Act.

24 Section 12. All fees and any fines imposed by the commission shall be paid to the fund of the
25 commission.

1 Section 13. The commission may refuse to grant or may suspend or revoke a home inspector
2 license or registration upon proof, to the satisfaction of the commission, that the holder has:

3 (1) Disclosed any information concerning the results of the home inspection without the
4 approval of a client or the client's representative;

5 (2) Accepted compensation from more than one interested party for the same service
6 without the written consent of all interested parties;

7 (3) Accepted commissions or allowances, directly or indirectly, from other parties dealing
8 with the holder's client in connection with work for which the holder is responsible;
9 or

10 (4) Failed to disclose promptly to a client information about any business interest of the
11 holder which may affect the client in connection with the home inspection.

12 Section 14. This Act is effective on January 1, 2001.

1 **BILL HISTORY**

2 1/15/00 First read in House and referred to Commerce. H.J. 58

3 1/20/00 Scheduled for Committee hearing on this date.

4 1/25/00 Scheduled for Committee hearing on this date.

5 1/25/00 Commerce Do Pass Amended, Passed, AYES 12, NAYS 0. H.J. 221

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

606D0131 **HOUSE AGRICULTURE AND NATURAL RESOURCES**
COMMITTEE ENGROSSED NO. HB1096 - 1/26/00

Introduced by: Representatives Wetz, Apa, Brown (Richard), Diedrich (Larry), Duenwald, Earley, Eccarius, Hunt, Jaspers, Konold, Koskan, Lintz, McNenny, Napoli, Pummel, Sutton (Duane), and Young and Senators Madden, Brown (Arnold), Drake, Dunn (Jim), Everist, Kleven, and Vitter

1 FOR AN ACT ENTITLED, An Act to assign liability for certain attempts to prevent or delay
2 the control or eradication of weeds and pests.

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

4 Section 1. If any person or entity takes legal action in any form to prevent or delay any
5 federal, state, or local government agency or any person from attempting to control or eradicate
6 an infestation of weeds or pests, as defined by state law, on any public land, including federal
7 land for which a state or local government agency has applied for permission to attempt to
8 control or eradicate such an infestation, and if the infestation subsequently spreads to adjacent
9 private land, the person or entity that brought such legal action is liable to the owner of the
10 private land for damages resulting from the infestation.

1 **BILL HISTORY**

2 1/15/00 First read in House and referred to committee assignment waived. H.J. 59

3 1/18/00 Referred to Agriculture and Natural Resources. H.J. 120

4 1/25/00 Scheduled for Committee hearing on this date.

5 1/25/00 Agriculture and Natural Resources Do Pass Amended, Passed, AYES 13, NAYS 0.

6 H.J. 220

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

282D0050 **HOUSE AGRICULTURE AND NATURAL RESOURCES**
COMMITTEE ENGROSSED NO. HB1150 - 1/28/00

Introduced by: Representatives Diedtrich (Elmer), Burg, Cerny, Chicoine, Clark, Crisp, Diedtrich (Larry), Duenwald, Engbrecht, Fryslie, Hanson, Juhnke, Kazmerzak, Koehn, Lintz, McCoy, Munson (Donald), Slaughter, Sutton (Duane), and Weber and Senators Brown (Arnold), Benson, Brosz, Drake, Duxbury, Flowers, Kloucek, Lawler, Madden, Moore, Symens, and Vitter

1 FOR AN ACT ENTITLED, An Act to clarify the definition of value added agriculture.

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

3 Section 1. That § 1-16G-27 be amended to read as follows:

4 1-16G-27. The Board of Economic Development shall administer the value added agriculture
5 subfund; and make grants or loans from the value added agriculture subfund. The value added
6 agriculture subfund shall be used to develop and promote value added agriculture in South
7 Dakota including the initial or subsequent production, use, or processing of any form of
8 agricultural commodity, product, or by-product in this state. Value added agriculture includes
9 a process that, by mechanical, chemical, or biological means, changes an agricultural product into
10 another agricultural or nonagricultural product that has economic value. For projects which
11 involve a separate agricultural research component, the Board of Economic Development shall
12 consult with the research services of South Dakota State University.

1 **BILL HISTORY**

2 1/19/00 First read in House and referred to Agriculture and Natural Resources. H.J. 132

3 1/27/00 Scheduled for Committee hearing on this date.

4 1/27/00 Agriculture and Natural Resources Do Pass Amended, Passed, AYES 12, NAYS 0.

5 H.J. 264

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

291D0442

HOUSE TRANSPORTATION COMMITTEE

ENGROSSED NO. **HB1155** - 1/27/00

Introduced by: Representatives Wetz, Brooks, Crisp, Derby, Duenwald, Jaspers, Kazmerzak, Lintz, McNenny, and Sebert and Senators Benson, Drake, Kleven, Kloucek, Reedy, Symens, and Vitter

1 FOR AN ACT ENTITLED, An Act to exempt certain not for hire livestock hauling activities
2 from certain motor carrier and commercial vehicle requirements.

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

4 Section 1. That § 32-9-3 be amended to read as follows:

5 32-9-3. For the purposes of this chapter, the following do not come within the definition of
6 "motor carriers" or "commercial vehicles" if used in intrastate operations:

7 (1) A motor vehicle registered in South Dakota used to carry private business property
8 of five hundred pounds or less;

9 (2) A motor vehicle chassis registered in South Dakota on which is mounted a
10 cornsheller, grain cleaner, feed grinder, grain and alfalfa feed mixing machine,
11 haystack mover, sawmill, water well drilling equipment, power shovel, ditchdigger,
12 mobile crane which exceeds the maximum size or weight limits prescribed by chapter
13 32-22, drag line, posthole auger, and which is not used for demonstration or display
14 purposes outside the limits of a municipality, or a truck tractor and trailer carrying
15 permanently mounted hay grinding equipment;

- 1 (3) Any motor vehicle registered in South Dakota used for the transportation of liquid or
2 solid livestock waste including trailers and equipment used to load liquid or solid
3 livestock waste and any vehicle registered in South Dakota used for the application,
4 distribution, spraying, or transportation from retail business to user of dry, liquid, or
5 anhydrous ammonia fertilizers or agricultural chemicals;
- 6 (4) A motor vehicle registered in South Dakota of less than thirty thousand pounds gross
7 weight owned by a merchant licensed under chapter 10-45 or ~~his~~ the merchant's
8 commissioned paid employee and used to transport the merchant's previously sold
9 merchandise to a purchaser outside the limits of a municipality and to return
10 exchanged property or to transport fuels to a purchaser within a municipality or an
11 unincorporated town which is without such service;
- 12 (5) A motor vehicle registered in South Dakota, owned by a farmer of this state and used
13 by or for the farmer to transport property for ~~his~~ the farmer's farming operation, to
14 transport farm property from farm to farm or from a community or market to ~~his~~ the
15 farm or from ~~his~~ the farm to a community or market, to transport ~~fifteen or less head~~
16 of livestock in a vehicle or combination of vehicles registered at twenty-six thousand
17 pounds or less without monetary compensation, or to transport farm property when
18 the vehicles are used as reimbursement in the ordinary exchange of farm work ~~if the~~
19 ~~provisions of § 49-28-8.2 are met;~~
- 20 (6) A motor vehicle registered in South Dakota operated by or for its owner and
21 exclusively used to transport products originating in or produced from logging or
22 mining operations or lumber milling waste products if such products are owned in fee
23 by the motor vehicle owner;
- 24 (7) Except as provided in § 32-9-3.3, any motor vehicle, trailer, semitrailer, motor
25 propelled, or trailed vehicle chassis registered in South Dakota, which is used for

1 highway construction or for the construction of stock water dugouts, dams, farm and
2 ranch irrigation systems, or other soil and water conservation projects on farms and
3 ranches and used exclusively on the job site. Such equipment may move between job
4 sites or from job site to a central location;

5 (8) A motor vehicle used principally for providing prearranged transportation of persons
6 to or from their place of employment and is operated by a person who does not drive
7 the vehicle for ~~his~~ the person's principal occupation, but is driving it only to or from
8 ~~his~~ the person's principal place of employment or for personal use as permitted by the
9 owner of the vehicle;

10 (9) A motor vehicle that is not for hire and is operated solely for educational purposes by
11 a student or an instructor as part of a heavy motor vehicle or heavy equipment
12 operator's course offered by a nonprofit postsecondary institution located in the state;

13 (10) A motor vehicle used for personal purposes and not operated for private business use;

14 (11) A motor vehicle used for recreational purposes and not operated for private business
15 use;

16 (12) A motor vehicle, trailer, semitrailer, motor propelled, or trailed vehicle chassis,
17 registered in South Dakota and used to move equipment involved in soil and water
18 conservation projects or township road work when operated between job sites or
19 from a job site to a central location or point of repair;

20 (13) Any motor vehicle used by an implement dealer to transport farm machinery to and
21 from a county fair or the state fair;

22 (14) A motor vehicle owned by a licensed motor vehicle dealer and used to transport
23 inventory replacement vehicles to the dealer's principal place of business. For the
24 purpose of this subdivision, motor vehicle does not include any motor vehicle which
25 carries inventory replacement vehicles entirely upon its own structure.

1 **BILL HISTORY**

2 1/19/00 First read in House and referred to Transportation. H.J. 133

3 1/24/00 Scheduled for Committee hearing on this date.

4 1/26/00 Scheduled for Committee hearing on this date.

5 1/26/00 Transportation Do Pass Amended, Passed, AYES 12, NAYS 0. H.J. 250

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

880D0663

HOUSE STATE AFFAIRS COMMITTEE

ENGROSSED NO. **HB1164** - 1/27/00

Introduced by: Representatives Hunt, Cutler, Fiegen, Koskan, McNenny, and Smidt and
Senators Rounds and Halverson

1 FOR AN ACT ENTITLED, An Act to limit nonresident political contributions under certain
2 circumstances.

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

4 Section 1. That chapter 12-25 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 No candidate for state-wide office or legislative office, nor the committee of any such
7 candidate, may accept, in any calendar year, more than twenty-five percent of the candidate's or
8 committee's total contributions from individual contributors who are not residents of the State
9 of South Dakota, or from political party committees or political action committees not organized
10 in the State of South Dakota.

11 Section 2. That chapter 12-25 be amended by adding thereto a NEW SECTION to read as
12 follows:

13 No political party committee or political action committee organized in the State of South
14 Dakota may accept, in any calendar year, more than twenty-five percent of its total contributions
15 from contributors who are not residents of, or organized in, the State of South Dakota.

1 **BILL HISTORY**

2 1/19/00 First read in House and referred to State Affairs. H.J. 135

3 1/24/00 Scheduled for Committee hearing on this date.

4 1/26/00 Scheduled for Committee hearing on this date.

5 1/26/00 State Affairs Do Pass Amended, Passed, AYES 7, NAYS 5. H.J. 242

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

669D0732

HOUSE EDUCATION COMMITTEE ENGROSSED NO. **HB1228** - 1/28/00

Introduced by: Representative Cutler and Senator Paisley

1 FOR AN ACT ENTITLED, An Act to clarify the effect of student suspension or expulsion on
2 transfers.

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

4 Section 1. That § 13-32-4.3 be amended to read as follows:

5 13-32-4.3. If any student is under suspension or expulsion ~~in a school district~~ from any
6 school, the student may not be ~~transferred to another~~ enrolled in a school district until the
7 suspension or expulsion has expired. If the suspension or expulsion is from a school in another
8 state or a nonpublic school in this state, the suspension or expulsion shall be based upon reasons
9 which would result in suspension or expulsion from a school district in this state. The sending
10 ~~district~~ school shall notify, in writing, the receiving ~~district~~ school of the suspension or expulsion
11 upon receiving a request ~~of~~ for the student's permanent school records ~~by~~ from the receiving
12 school.

1 **BILL HISTORY**

2 1/21/00 First read in House and referred to Education. H.J. 176

3 1/27/00 Scheduled for Committee hearing on this date.

4 1/27/00 Education Do Pass Amended, Passed, AYES 13, NAYS 0. H.J. 265

5 1/27/00 Education Place on Consent Calendar.

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

813D0562

HOUSE EDUCATION COMMITTEE ENGROSSED NO. **HB1236** - 1/28/00

Introduced by: Representatives Juhnke, Brooks, Brown (Richard), McCoy, and Monroe and
Senators Hutmacher, Benson, and Ham

1 FOR AN ACT ENTITLED, An Act to establish the South Dakota teacher incentive student loan
2 repayment program and to make an appropriation therefor.

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

4 Section 1. Terms used in this Act mean:

5 (1) "Applicant," any person who has applied for student loan repayment under the South
6 Dakota teacher incentive student loan repayment program;

7 (2) "Department," the Department of Education and Cultural Affairs;

8 (3) "Program," the South Dakota teacher incentive student loan repayment program;

9 (4) "Student loan" or "loan," any loan for education purposes that meets the
10 requirements of section 3 of this Act.

11 Section 2. The South Dakota teacher incentive student loan repayment program is hereby
12 established. Under the program, any public or nonpublic school teacher who, after the effective
13 date of this Act, begins teaching in South Dakota for the first time may receive an annual
14 payment as provided in this Act from the department to pay a portion of qualifying student loans
15 incurred in enrolling in and completing any postsecondary undergraduate or graduate degree that
16 is directly related to the teacher's current teaching position.

1 Section 3. A qualifying student loan for the South Dakota teacher incentive student loan
2 repayment program includes any federally insured student loan, any education loan provided by
3 this or any other state, or any education loan from any private or public source. A loan is a
4 qualifying loan if the applicant can document that the proceeds of the loan were paid to an
5 educational institution for use in the completion of a postsecondary undergraduate or graduate
6 degree that is directly related to the applicant's employment as a teacher in South Dakota.

7 Section 4. Under the program, a qualified applicant may receive an amount not to exceed
8 fifty percent of the principal of cumulative qualifying student loans incurred by the applicant. The
9 total amount of funds paid under the program to a qualifying applicant may not exceed fifteen
10 thousand dollars, and disbursement to the applicant shall be divided into five equal annual
11 payments. If the applicant ceases to be a teacher in this state, the applicant's remaining payments
12 under the program are forfeited. No person may receive more than five payments under the
13 program.

14 Section 5. The department shall promulgate rules pursuant to chapter 1-26 to administer the
15 South Dakota teacher incentive student loan repayment program. The rules shall establish
16 application requirements and procedures, procedures for the disbursement of funds, procedures
17 for documenting the nature of education loans incurred by an applicant, procedures for verifying
18 the applicant's eligibility for the program, and other procedures and requirements necessary to
19 operate the program.

20 Section 6. The teacher incentive student loan repayment fund is hereby established in the
21 state treasury. Any money in the fund shall be used to make disbursements under the program
22 and to administer the program. Any interest earned on money in the fund shall be deposited into
23 the fund. Money in the fund is continuously appropriated to the department to carry out the
24 purposes of this Act.

1 **BILL HISTORY**

2 1/21/00 First read in House and referred to Education. H.J. 177

3 1/27/00 Scheduled for Committee hearing on this date.

4 1/27/00 Education Do Pass Amended, Passed, AYES 10, NAYS 2. H.J. 265