



# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

400D0343

## SENATE TAXATION COMMITTEE ENGROSSED NO. **HB1037** - 2/10/00

Introduced by: The Committee on Local Government at the request of the Department of Revenue

1 FOR AN ACT ENTITLED, An Act to require municipalities to provide boundary change  
2 information to the Department of Revenue to facilitate the development of a simplified sales  
3 tax collection system.

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

5 Section 1. That chapter 10-52 be amended by adding thereto a NEW SECTION to read as  
6 follows:

7 For purposes of this chapter, any new resolution or amendment enacted by a municipality  
8 which changes the boundaries of the municipality is effective on the first day of the first month  
9 following at least sixty days notification by the municipality to the secretary of revenue that the  
10 resolution or amendment has been enacted unless the ordinance or amendment is suspended by  
11 operation of a referendum. If a resolution or amendment enacted pursuant to chapter 9-4 is  
12 referred and the referred resolution or amendment is approved, the effective date is the first day  
13 of the first month following at least sixty days notification by a municipality to the secretary of  
14 revenue that the resolution or amendment has been approved. The municipality shall provide  
15 written notification of the enactment or approval of the resolution or amendment, along with a  
16 copy of the resolution or amendment by registered or certified mail or by any electronic means

1 to the secretary of revenue. The municipality shall also provide any changes or additions to  
2 streets and addresses.

1 **BILL HISTORY**

2 1/11/00 First read in House and referred to Taxation. H.J. 19

3 1/18/00 Scheduled for Committee hearing on this date.

4 1/18/00 Taxation Do Pass, Passed, AYES 13, NAYS 0. H.J. 110

5 1/19/00 House of Representatives Do Pass, Passed, AYES 68, NAYS 0. H.J. 149

6 1/20/00 First read in Senate and referred to Taxation. S.J. 132

7 2/4/00 Scheduled for Committee hearing on this date.

8 2/9/00 Scheduled for Committee hearing on this date.

9 2/9/00 Taxation Do Pass Amended, Passed, AYES 7, NAYS 0. S.J. 380

10 2/9/00 Taxation Place on Consent Calendar.

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

175D0060

HOUSE STATE AFFAIRS COMMITTEE

ENGROSSED NO. **SB12** - 2/14/00

Introduced by: The Committee on State Affairs at the request of the Commissioner of School and Public Lands

1 FOR AN ACT ENTITLED, An Act to provide for a conservation easement for certain state  
2 lands.

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

4 Section 1. If the federal government conveys the fee title of any land to the State of South  
5 Dakota and that land is under the management of the Office of School and Public Lands, the  
6 Office of School and Public Lands may reconvey the fee title to another party if the land is no  
7 longer used or needed by the state. However, the state may hold a perpetual conservation  
8 easement to protect the public interest in preserving the archaeological and paleontological  
9 aspects on the land when the fee title is conveyed to another party. The conveyance documents  
10 shall specify the conservation easement and the conservation easement shall be made in  
11 accordance with §§ 1-19B-56 to 1-19B-60, inclusive.

12 Section 2. The State of South Dakota, when exchanging land pursuant to § 5-3-7 or selling  
13 land pursuant to chapter 5-9, may hold a perpetual conservation easement preserving the  
14 archaeological and paleontological aspects on such land to protect the public interest. The  
15 conveyance documents may specify the conservation easement, if any, and the conservation  
16 easement shall be made in accordance with §§ 1-19B-56 to 1-19B-60, inclusive.

1 **BILL HISTORY**

2 1/11/00 First read in Senate and referred to State Affairs. S.J. 16

3 1/14/00 Scheduled for Committee hearing on this date.

4 1/17/00 Scheduled for Committee hearing on this date.

5 1/19/00 Scheduled for Committee hearing on this date.

6 1/19/00 State Affairs Do Pass Amended, Passed, AYES 9, NAYS 0. S.J. 108

7 1/21/00 Senate Deferred to another day. S.J. 142

8 1/25/00 Motion to Amend, Passed. S.J. 189

9 1/25/00 Senate Do Pass Amended, Passed, AYES 32, NAYS 3. S.J. 189

10 1/26/00 First read in House and referred to State Affairs. H.J. 260

11 2/11/00 Scheduled for Committee hearing on this date.

12 2/11/00 State Affairs Do Pass Amended, Passed, AYES 12, NAYS 0. H.J. 600

13 2/11/00 State Affairs Place on Consent Calendar.

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

400D0306

## SENATE JUDICIARY COMMITTEE ENGROSSED NO. **SB20** - 2/8/00

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

1 FOR AN ACT ENTITLED, An Act to provide for the crime of identity theft.

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

3 Section 1. A person commits the offense of identity theft if the person without the  
4 authorization or permission of another person and with the intent to deceive or defraud:

5 (1) Obtains, possesses, transfers, uses, attempts to obtain, or records identifying  
6 information not lawfully issued for that person's use; or

7 (2) Accesses or attempts to access the financial resources of that person through the use  
8 of identifying information.

9 A violation of this section is a Class 1 misdemeanor.

10 Section 2. For the purposes of this Act, identifying information includes:

11 (1) Birth certificate or passport information;

12 (2) Driver's license numbers;

13 (3) Social security or other taxpayer identification numbers;

14 (4) Checking account numbers;

15 (5) Savings account numbers;

16 (6) Credit card numbers;

- 1       (7)   Debit card numbers;
- 2       (8)   Personal identification numbers, passwords, or challenge questions;
- 3       (9)   User names or identifications;
- 4       (10)  Biometric data; or
- 5       (11)  Any other numbers, documents, or information which can be used to access a person's
- 6               financial resources.

7       Section 3. In any criminal proceeding brought pursuant to section 1 of this Act, the crime

8       shall be considered to have been committed in any county in which any part of the identity theft

9       took place, regardless of whether the defendant was ever actually in such county.

1 **BILL HISTORY**

2 1/11/00 First read in Senate and referred to Judiciary. S.J. 17

3 1/14/00 Scheduled for Committee hearing on this date.

4 1/14/00 Judiciary Deferred to another day.

5 2/4/00 Scheduled for Committee hearing on this date.

6 2/4/00 Judiciary Do Pass Amended, Passed, AYES 7, NAYS 0. S.J. 328

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

400D0307

## HOUSE JUDICIARY COMMITTEE ENGROSSED NO. **SB21** - 2/1/00

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

1 FOR AN ACT ENTITLED, An Act to allow for additional public distribution of sex offender  
2 information.

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

4 Section 1. That § 22-22-34 be amended to read as follows:

5 22-22-34. The Division of Criminal Investigation may make the file available to any regional  
6 or national registry of sex offenders. The division shall accept files from any regional or national  
7 registry of sex offenders and shall make such files available ~~when~~ if requested pursuant to  
8 §§ 22-22-30 to 22-22-39, inclusive. The division may compile regional or statewide registration  
9 lists for public inspection as provided by chapter 1-27 or public distribution, including electronic  
10 or internet distribution.

1 **BILL HISTORY**

2 1/11/00 First read in Senate and referred to Judiciary. S.J. 17

3 1/14/00 Scheduled for Committee hearing on this date.

4 1/14/00 Judiciary Do Pass, Passed, AYES 5, NAYS 1. S.J. 42

5 1/15/00 Senate Do Pass, Failed, AYES 14, NAYS 18. S.J. 61

6 1/15/00 Intent to reconsider. S.J. 61

7 1/18/00 Senate Reconsidered, AYES 27, NAYS 7. S.J. 69

8 1/19/00 Senate Deferred to another day. S.J. 120

9 1/20/00 Motion to Amend, Passed. S.J. 129

10 1/20/00 Senate Do Pass Amended, Passed, AYES 29, NAYS 5. S.J. 130

11 1/21/00 First read in House and referred to Judiciary. H.J. 185

12 1/31/00 Scheduled for Committee hearing on this date.

13 1/31/00 Judiciary Do Pass Amended, Passed, AYES 8, NAYS 5. H.J. 298

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

813D0287

SENATE EDUCATION COMMITTEE

ENGROSSED NO. **SB59** - 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: Senators Albers, Madden, and Vitter and Representatives Engbrecht and Hennies

1 FOR AN ACT ENTITLED, An Act to clarify certain provisions related to the filing of student  
2 birth certificates.

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

4 Section 1. That § 13-27-3.1 be amended to read as follows:

5 13-27-3.1. Any person who is required pursuant to § 13-27-1 to cause any child to attend  
6 any public or nonpublic school or alternative instruction program pursuant to § 13-27-3 in this  
7 state shall, either at the time of enrollment in any school in this state or upon being excused from  
8 school attendance pursuant to § 13-27-3 or within thirty days of initial enrollment or excuse,  
9 provide the public or nonpublic school or the alternative instruction program with a certified  
10 copy of ~~such~~ the child's birth certificate or affidavit in lieu of birth certificate as issued by the  
11 Department of Health in such cases where the original birth certificate is deemed unattainable.  
12 Any parent or guardian who requests an excuse for his or her child pursuant to § 13-27-3, shall  
13 with the initial request for excuse, provide a certified copy of the child's birth certificate or an  
14 affidavit notarized or witnessed by two or more witnesses, swearing or affirming that the child  
15 identified on the request for excuse is the same person appearing on the child's certified birth

1 certificate. A violation of this section is a Class 2 misdemeanor.

2 Section 2. That § 13-27-3.2 be amended to read as follows:

3 13-27-3.2. Any copy of any certified birth certificate provided pursuant to § 13-27-3.1 shall  
4 be maintained by the public or nonpublic school or alternative instruction program and shall  
5 ~~become~~ be a part of the child's permanent cumulative school record.

6 Section 3. That § 13-27-3.3 be amended to read as follows:

7 13-27-3.3. The superintendent of any public or nonpublic school or any person who provides  
8 alternative instruction in this state who maintains a child's permanent cumulative school record  
9 shall ~~regularly~~ report to the ~~state's attorney~~ school board of the district the name and address of  
10 any child ~~for whom the school~~ whose permanent cumulative record does not have a copy of a  
11 certified birth certificate in violation of § 13-27-3.1 or 13-27-3.2. Upon receipt of the report of  
12 violation, the school board shall notify by certified mail the parent or guardian of the child whose  
13 record is in violation of §§ 13-27-3.1 and 13-27-3.2. If the violation is not corrected within thirty  
14 days after the report, the school board of the district shall notify the state's attorney.

1 **BILL HISTORY**

2 1/15/00 First read in Senate and referred to Education. S.J. 57

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

4 1/20/00 Education Deferred to another day, AYES 4, NAYS 2.

5 1/25/00 Education Hog Housed.

6 1/25/00 Scheduled for Committee hearing on this date.

7 1/25/00 Education Do Pass Amended, Passed, AYES 7, NAYS 0. S.J. 181

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

391D0180

## SENATE ENGROSSED NO. **SB83** - 2/3/00

Introduced by: Senators Hainje, Albers, Brown (Arnold), Daugaard, Dennert, Drake, Dunn (Rebecca), Duxbury, Everist, Frederick, Kleven, and Symens and Representatives Fiegen, Cutler, Davis, Duniphan, Fischer-Clemens, Hennies, Koetzle, Lintz, Michels, Patterson, Roe, Waltman, and Young

1 FOR AN ACT ENTITLED, An Act to provide immunity from civil liability for the placement  
2 and use of automated external defibrillators.

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

4 Section 1. Terms used in this Act mean:

- 5 (1) "AED," an automated external defibrillator;
- 6 (2) "Person," a natural person, organization, corporation, partnership, limited partnership,  
7 joint venture, association, or any other legal or commercial entity;
- 8 (3) "Physician," a physician licensed pursuant to chapter 36-4.

9 Section 2. Any person, who in good faith obtains an AED for use in providing emergency  
10 care or treatment, is immune from civil liability for any injury as a result of such emergency care  
11 or treatment or as a result of an act or failure to act in providing or arranging such medical  
12 treatment. This immunity applies only if the following requirements are fulfilled:

- 13 (1) The person tests and maintains the AED, or arranges to have such testing and  
14 maintenance performed on the AED pursuant to the AED manufacturer's  
15 specifications;

1       (2)    The person involves a physician to authorize in writing AED placement and  
2            compliance with the requirements for AED training, notification of placement and use,  
3            and maintenance;

4       (3)    An emergency medical services system is activated when an AED has been used to  
5            render emergency care or treatment; and

6       (4)    The person has reported any emergency use of the AED to the physician.

7       Section 3. Any physician who provides those services stated in subdivision (2) of section 2  
8       of this Act is immune from civil liability for any personal injury that occurs as a result of  
9       emergency care or treatment rendered using the AED or as a result of an act or failure to act in  
10       providing or arranging such medical treatment.

11       Section 4. Any person who provides AED training is immune from civil liability for any  
12       personal injury that occurs as a result of emergency care or treatment rendered using the AED  
13       or as a result of an act or failure to act in providing or arranging such medical treatment.

14       Section 5. Any person who acquires an AED shall notify an agent of the emergency  
15       communications or vehicle dispatch center of the existence, location, and type of AED.

16       Section 6. The immunity from civil liability under this Act does not apply if the personal  
17       injury results from the gross negligence or willful or wanton misconduct of the person rendering  
18       such emergency care.

1 **BILL HISTORY**

2 1/18/00 First read in Senate and referred to Judiciary. S.J. 71

3 1/28/00 Scheduled for Committee hearing on this date.

4 1/28/00 Judiciary Do Pass Amended, Passed, AYES 7, NAYS 0. S.J. 253

5 2/2/00 Senate Do Pass Amended, Passed, AYES 34, NAYS 0. S.J. 295

6 2/2/00 Senate Title Amended Passed. S.J. 295

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

536D0410

## SENATE ENGROSSED NO. **SB86** - 2/10/00

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

Introduced by: Senators Madden, Albers, Flowers, Hainje, Lawler, Moore, Munson (David), Shoener, Symens, and Vitter and Representatives Konold, Brooks, Diedrich (Larry), Diedrich (Elmer), Duenwald, Eccarius, Fischer-Clemens, Garnos, Hanson, Hennies, Klaudt, Lintz, McCoy, Munson (Donald), Sutton (Duane), Volesky, Wetz, Wilson, and Young

1 FOR AN ACT ENTITLED, An Act to exempt certain traffic violations from the requirement  
2 that a restricted minor's permit be suspended.

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

4 Section 1. That § 32-12-15 be amended to read as follows:

5 32-12-15. The issuance of an instruction permit or restricted minor's permit is on a  
6 probationary basis. The Department of Commerce and Regulation on the receipt of a record of  
7 conviction for a traffic violation classified as a felony or Class 1 misdemeanor, prior to the  
8 minor's sixteenth birthday, shall suspend the minor's driving privileges until the minor's sixteenth  
9 birthday or as otherwise required by law. Upon the receipt of a record of conviction prior to the  
10 minor's sixteenth birthday of any other traffic violation, the department shall suspend an  
11 instruction permit or restricted minor's permit for a period of thirty days for a first violation. No  
12 permit may be suspended for a first violation of § 32-14-9.1, 32-21-27, 32-25-5, 34A-7-7, or 32-  
13 26-20. A second conviction for a traffic violation committed prior to the minor's sixteenth  
14 birthday or a conviction for a violation of an instruction permit or restricted minor's permit

1 committed prior to the minor's sixteenth birthday shall result in revocation of the minor's driving  
2 privileges until the minor's sixteenth birthday or for a period of ninety days, whichever period is  
3 longer, or as otherwise required by law. If a minor has no instruction permit or restricted minor's  
4 permit and is convicted of any traffic violation prior to the minor's sixteenth birthday, the  
5 department shall suspend or revoke the minor's driving privilege or privilege to apply for a permit  
6 or license as provided in this section. Any traffic violation which occurs prior to the issuance of  
7 an instruction permit or restricted minor's permit or an operator's license shall be placed on the  
8 driving record and given the same consideration as any violation which occurs following the  
9 issuance of an instruction permit, restricted minor's permit, or an operator's license.

1 **BILL HISTORY**

2 1/18/00 First read in Senate and referred to Judiciary. S.J. 72

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

4 1/24/00 Deferred to 36th legislative day, AYES 6, NAYS 1. S.J. 175

5 2/7/00 Judiciary Hog Housed.

6 2/7/00 Scheduled for Committee hearing on this date.

7 2/7/00 Judiciary Reconsidered.

8 2/7/00 Judiciary Do Pass Amended, Passed, AYES 6, NAYS 1. S.J. 341

9 2/9/00 Motion to Amend, Passed. S.J. 389

10 2/9/00 Senate Do Pass Amended, Passed, AYES 31, NAYS 3. S.J. 389

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

545D0525

## SENATE ENGROSSED NO. **SB92** - 1/26/00

Introduced by: Senators Everist, Bogue, Brosz, Dunn (Jim), Halverson, Olson, Rounds, and Shoener and Representatives Hunt, Brooks, Davis, Fiegen, Konold, and Peterson

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the time period to  
2 collect signatures for initiative petitions and initiated constitutional amendment petitions.

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

4 Section 1. That § 2-1-6.2 be amended to read as follows:

5 2-1-6.2. The full text of any initiative petition, referred law petition, or initiated constitutional  
6 amendment petition ~~complete with, the date of the general election at which the initiated law or~~  
7 initiated constitutional amendment is to be submitted, and the names and addresses of the  
8 petition sponsors shall be filed with the secretary of state prior to circulation for signatures. The  
9 signer's post office box number may be given in lieu of a street address if the signer lives within  
10 a municipality of the second or third class. The form of the petitions shall be prescribed by the  
11 State Board of Elections. ~~Signatures may be collected on initiative petitions for one year~~  
12 ~~following the filing of the full text. The petition signatures shall be filed no later than one year~~  
13 ~~after filing the full text with the appropriate filing officer. For any initiated constitutional~~  
14 amendment petition, no signatures may be obtained more than twenty-four months preceding the  
15 general election that was designated at the time of filing of the full text. For any initiative  
16 petition, no signatures may be obtained more than eighteen months preceding the general

1 election that was designated at the time of filing of the full text. An initiative petition and an  
2 initiated constitutional amendment petition shall be filed with the secretary of state by the date  
3 set forth in § 2-1-2 or 2-1-2.1, as applicable. All sections of any petition filed under this chapter  
4 shall be filed with the secretary of state simultaneously together with a sworn affidavit on forms  
5 promulgated by the State Board of Elections, signed by two-thirds of the sponsors stating that  
6 the documents filed constitute the entire petition and to the best of their knowledge contain a  
7 sufficient number of signatures.

8 Section 2. The provisions of this Act do not apply to any initiative petition or initiated  
9 constitutional amendment petition filed with the secretary of state, prior to circulation for  
10 signatures, before the effective date of this Act.

1 **BILL HISTORY**

2 1/18/00 First read in Senate and referred to State Affairs. S.J. 73

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

4 1/24/00 State Affairs Do Pass, Passed, AYES 8, NAYS 0. S.J. 150

5 1/25/00 Motion to Amend, Passed. S.J. 193

6 1/25/00 Senate Do Pass Amended, Passed, AYES 31, NAYS 3. S.J. 193

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

256D0148

## HOUSE COMMERCE COMMITTEE ENGROSSED NO. **SB97** - 2/11/00

Introduced by: Senators Halverson, Brown (Arnold), Dennert, Lange, Lawler, Madden, Reedy, Rounds, and Symens and Representatives Diedrich (Larry), Apa, Clark, Engbrecht, Hennies, Slaughter, Sutton (Daniel), and Volesky

1 FOR AN ACT ENTITLED, An Act to revise the definition of indigent by design for purposes  
2 of county poor relief.

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

4 Section 1. That § 28-13-27 be amended to read as follows:

5 28-13-27. Terms used in this chapter mean:

- 6 (1) "Actual cost of hospitalization," the actual cost to a hospital of providing hospital  
7 services to a medically indigent person, determined by applying the ratios of costs to  
8 charges appearing on the statement of costs required in § 28-13-28 to charges at the  
9 hospital in effect at the time the hospital services are provided;
- 10 (2) "Emergency hospital services," treatment in the most appropriate hospital available  
11 to meet the emergency need. The physician, physician assistant, or nurse practitioner  
12 on duty or on call at the hospital must determine whether the individual requires  
13 emergency hospital care. The need for emergency hospital care is established if the  
14 absence of emergency care is expected to result in death, additional serious jeopardy  
15 to the individual's health, serious impairment to the individual's bodily functions, or

- 1 serious dysfunction of any bodily organ or part. The term does not include care for  
2 which treatment is available and routinely provided in a clinic or physician's office;
- 3 (3) "Hospital," any hospital licensed as such by the state in which it is located;
- 4 (4) "Household," the patient, minor children of the patient living with the patient, and  
5 anyone else living with the patient to whom the patient has the legal right to look for  
6 support;
- 7 (5) "Nonemergency care," hospitalization which is medically necessary and recommended  
8 by a physician licensed under chapter 36-4 but does not require immediate care or  
9 attention;
- 10 (6) "Indigent by design," an individual who meets any one of the following criteria:
- 11 (a) Is able to work but has chosen not to work;
- 12 (b) Is a student at a postsecondary institution who has chosen not to purchase  
13 health insurance;
- 14 (c) Has failed to purchase or elect major medical health insurance ~~which was or~~  
15 health benefits made available through ~~the individual's employer~~ an employer-  
16 based health benefit plan although the person was financially able, pursuant to  
17 section 2 of this Act, to purchase or elect the insurance or health benefits;
- 18 (d) Has failed to purchase available major medical health insurance although the  
19 individual was insurable and was financially able, pursuant to section 2 of this  
20 Act, to purchase the insurance. For purposes of this subdivision, an individual  
21 is presumed insurable unless the individual can produce sufficient evidence to  
22 show that the individual was declined major medical insurance by an insurance  
23 company and the individual did not qualify for any guarantees of major medical  
24 insurance available through any legal or contractual right that was not  
25 exercised; or

1           ~~(d)~~(e) Has transferred resources for purposes of establishing eligibility for medical  
2                           assistance available under the provisions of this chapter. The lookback period  
3                           for making this determination includes the thirty-six month period immediately  
4                           prior to the onset of the individual's illness and continues through the period  
5                           of time for which the individual is requesting services.

6           Section 2. That chapter 28-13 be amended by adding thereto a NEW SECTION to read as  
7 follows:

8           For purposes of subsections 28-13-27(6)(c) and (d), when determining whether the  
9 household was financially able to purchase health insurance which would have covered the  
10 medical costs the county is being requested to pay, the county shall use the following  
11 methodology:

- 12           (1) Determine the household's income and resources according to §§ 28-13-32.7 and  
13                           28-13-32.8;
- 14           (2) Determine the household's contributions for taxes, social security, medicare, and  
15                           payments to other standard retirement programs according to subdivision  
16                           28-13-32.9(1);
- 17           (3) Except for the medical expenses for which the household is requesting assistance,  
18                           determine the household's expenses according to subdivision 28-13-32.9(2);
- 19           (4) Determine the amount of the household's discretionary income by subtracting the sum  
20                           of the household's contributions and expenses from the household's income. Divide  
21                           the amount of the household's discretionary income in half. The result added to the  
22                           household's adjusted resources determined according to § 28-13-32.8 equals the  
23                           household's discretionary income that was available to purchase health insurance;
- 24           (5) Subtract the amount of the monthly health insurance premium that was available to  
25                           the household if known or, if unknown, an estimate of the premium the household

1 could be expected to incur. For purposes of this subdivision, the county shall establish  
2 such estimate either by obtaining premium estimates from two major medical  
3 insurance carriers doing business in the state or by using an estimate based on the rate  
4 data provided to the county by the Division of Insurance of the Department of  
5 Commerce and Regulation. The policy used shall have a benefit design that equals or  
6 exceeds the benefit design of the basic benefit plan as developed by the Health Benefit  
7 Plan Committee pursuant to § 58-18B-32. If the result is a negative number, the  
8 health insurance was not affordable. If the result is a positive number, health insurance  
9 was affordable and the individual is considered to be indigent by design.

1 **BILL HISTORY**

2 1/18/00 First read in Senate and referred to State Affairs. S.J. 74

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

4 1/24/00 State Affairs Do Pass Amended, Passed, AYES 8, NAYS 0. S.J. 162

5 1/26/00 Senate Do Pass Amended, Passed, AYES 34, NAYS 0. S.J. 206

6 1/27/00 First read in House and referred to Commerce. H.J. 277

7 2/10/00 Scheduled for Committee hearing on this date.

8 2/10/00 Commerce Do Pass Amended, Passed, AYES 11, NAYS 0. H.J. 556

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

400D0664

## SENATE COMMERCE COMMITTEE ENGROSSED NO. **SB157** - 2/2/00

Introduced by: Senators Daugaard and Brosz and Representatives Koskan and Broderick

1 FOR AN ACT ENTITLED, An Act to clarify the reporting and collection of the  
2 telecommunications access fee for the deaf, hearing impaired, and speech impaired.

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

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

5 10-59-1. The provisions of this chapter apply to any taxes or fees or persons subject to taxes  
6 or fees imposed by chapters 10-39, 10-39A, 10-39B, 10-43, 10-45, 10-46, 10-46A, 10-46B,  
7 10-47B, 10-52, 10-60, 32-3, 32-5, 32-5B, 32-6B, 32-9, 32-10, and 34A-13 and §§ 22-25-48,  
8 49-31-51, 50-4-13 to 50-4-17, inclusive, and the provisions of chapter 10-45B.

9 Section 2. That chapter 49-31 be amended by adding thereto a NEW SECTION to read as  
10 follows:

11 The secretary of revenue may promulgate rules, pursuant to chapter 1-26, to administer the  
12 fee imposed pursuant to § 49-39-51. The rules may include:

- 13 (1) The filing of returns and payment of the fee;
- 14 (2) Determining the application of the fee;
- 15 (3) Record-keeping requirements; and
- 16 (4) Determining auditing methods.

1 **BILL HISTORY**

2 1/21/00 First read in Senate and referred to Commerce. S.J. 138

3 2/1/00 Scheduled for Committee hearing on this date.

4 2/1/00 Commerce Do Pass Amended, Passed, AYES 7, NAYS 0. S.J. 268

5 2/1/00 Commerce Place on Consent Calendar.

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

357D0632

## SENATE TAXATION COMMITTEE ENGROSSED NO. **SB167** - 2/3/00

Introduced by: Senators Benson and Bogue and Representatives Juhnke and Koskan

1 FOR AN ACT ENTITLED, An Act to clarify who is responsible to file the return and remit the  
2 sales tax due from auctions.

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

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

6 All auctions sales and consignment sales of tangible personal property and services are sales  
7 at retail. The auction clerk shall file the return and remit the tax imposed by this chapter on the  
8 gross receipts from each auction after applying the deductions provided by § 10-45-92.  
9 However, the auctioneer is responsible for the payment of the tax imposed by this chapter if the  
10 auction clerk is an employee of the auctioneer or if the auction clerk does not have a permit as  
11 required by this chapter. In addition to any other information required to be kept by this chapter,  
12 each auction clerk shall keep records that identify the owner of the property sold at auction and  
13 the auctioneer who conducts the sale of such property.

14 Section 2. That chapter 10-46 be amended by adding thereto a NEW SECTION to read as  
15 follows:

16 All auctions sales and consignment sales of tangible personal property and services are sales

1 at retail. The auction clerk shall file the return and remit the tax imposed by this chapter on the  
2 gross receipts from each auction after applying the deductions provided by § 10-45-92.  
3 However, the auctioneer is responsible for the payment of the tax imposed by this chapter if the  
4 auction clerk is an employee of the auctioneer or if the auction clerk does not have a permit as  
5 required by this chapter. In addition to any other information required to be kept by this chapter,  
6 each auction clerk shall keep records that identify the owner of the property sold at auction and  
7 the auctioneer who conducts the sale of such property.

1 **BILL HISTORY**

2 1/21/00 First read in Senate and referred to Taxation. S.J. 140

3 2/2/00 Scheduled for Committee hearing on this date.

4 2/2/00 Taxation Do Pass Amended, Passed, AYES 8, NAYS 0. S.J. 284

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

400D0748

SENATE STATE AFFAIRS COMMITTEE

ENGROSSED NO. **SB187** - 2/1/00

Introduced by: Senator Albers

1 FOR AN ACT ENTITLED, An Act to provide for the revocation or refusal of a gaming or  
2 racing license.

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

4 Section 1. Notwithstanding §§ 23A-27-14 and 23A-27-17, a person who has received an  
5 order pursuant to § 23A-27-13 for a felony offense, who is licensed or seeks to be licensed by  
6 the South Dakota Commission on Gaming pursuant to § 42-7B-22 or subdivision 42-7-56(12),  
7 shall have an application refused or a license revoked after a hearing as provided pursuant to  
8 chapter 1-26 unless the person has successfully completed the probationary period imposed by  
9 the court.

1 **BILL HISTORY**

2 1/24/00 First read in Senate and referred to State Affairs. S.J. 167

3 1/28/00 Scheduled for Committee hearing on this date.

4 1/28/00 State Affairs Deferred to another day.

5 1/31/00 State Affairs Do Pass Amended, Passed, AYES 8, NAYS 1. S.J. 251

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

347D0743

SENATE STATE AFFAIRS COMMITTEE

ENGROSSED NO. **SB193** - 2/3/00

Introduced by: Senators Everist and Olson and Representatives Duenwald, Michels, and Wilson

1 FOR AN ACT ENTITLED, An Act to establish certain requirements and procedures regarding  
2 electronic transactions.

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

4 Section 1. Terms used in this Act mean:

5 (1) "Agreement," the bargain of the parties in fact, as found in their language or inferred  
6 from other circumstances and from rules and procedures given the effect of  
7 agreements under laws otherwise applicable to a particular transaction;

8 (2) "Automated transaction," a transaction conducted or performed, in whole or in part,  
9 by electronic means or electronic records, in which the acts or records of one or both  
10 parties are not reviewed by an individual in the ordinary course in forming a contract,  
11 performing under an existing contract, or fulfilling an obligation required by the  
12 transaction;

13 (3) "Computer program," a set of statements or instructions to be used directly or  
14 indirectly in an information processing system in order to bring about a certain result;

15 (4) "Contract," the total legal obligation resulting from the parties' agreement as affected  
16 by this Act and other applicable law;

- 1 (5) "Electronic," any technology using electrical, digital, magnetic, wireless, optical,  
2 electromagnetic, or similar capabilities;
- 3 (6) "Electronic agent," a computer program or an electronic or other automated means  
4 used independently to initiate an action or respond to electronic records or  
5 performances in whole or in part, without review or action by an individual;
- 6 (7) "Electronic record," a record created, generated, sent, communicated, received, or  
7 stored by electronic means;
- 8 (8) "Electronic signature," an electronic sound, symbol, or process attached to or  
9 logically associated with a record and executed or adopted by a person with the intent  
10 to sign the record;
- 11 (9) "Governmental agency," an executive, legislative, or judicial agency, department,  
12 board, commission, authority, institution, or instrumentality of the federal government  
13 or of a state or of a county, municipality, or other political subdivision of a state;
- 14 (10) "Information," data, text, images, sounds, codes, computer programs, software,  
15 databases, or the like;
- 16 (11) "Information processing system," an electronic system for creating, generating,  
17 sending, receiving, storing, displaying, or processing information;
- 18 (12) "Person," an individual, corporation, business trust, estate, trust, partnership, limited  
19 liability company, association, joint venture, governmental agency, public corporation,  
20 or any other legal or commercial entity;
- 21 (13) "Record," information that is inscribed on a tangible medium or that is stored in an  
22 electronic or other medium and is retrievable in perceivable form;
- 23 (14) "Security procedure," a procedure employed for the purpose of verifying that an  
24 electronic signature, record, or performance is that of a specific person or for  
25 detecting changes or errors in the information in an electronic record. The term

1 includes a procedure that requires the use of algorithms or other codes, identifying  
2 words or numbers, encryption, or callback or other acknowledgment procedures;

3 (15) "State," a state of the United States, the District of Columbia, Puerto Rico, the United  
4 States Virgin Islands, or any territory or insular possession subject to the jurisdiction  
5 of the United States. The term includes an Indian tribe or band, or Alaskan native  
6 village, which is recognized by federal law or formally acknowledged by a state;

7 (16) "Transaction," an action or set of actions occurring between two or more persons  
8 relating to the conduct of business, commercial, or governmental affairs.

9 Section 2. Except as otherwise provided in section 3 of this Act, this Act applies to electronic  
10 records and electronic signatures relating to a transaction.

11 Section 3. This Act does not apply to a transaction to the extent it is governed by:

12 (1) The Uniform Probate Code or other law governing the creation and execution of  
13 wills, codicils, or testamentary trusts;

14 (2) The Uniform Commercial Code other than Sections 1-107 and 1-206, Article 2,  
15 Article 2A, and Article 9; and

16 (3) Transactions under chapter 15-6 or other transactions involving the Unified Judicial  
17 System.

18 Section 4. This Act applies to an electronic record or electronic signature otherwise excluded  
19 from the application of this Act under section 3 of this Act to the extent it is governed by a law  
20 other than those specified in section 3 of this Act.

21 Section 5. A transaction subject to this Act is also subject to other applicable substantive law.

22 Section 6. This Act applies to any electronic record or electronic signature created,  
23 generated, sent, communicated, received, or stored on or after the effective date of this Act.

24 Section 7. This Act does not require a record or signature to be created, generated, sent,  
25 communicated, received, stored, or otherwise processed or used by electronic means or in

1 electronic form.

2 Section 8. This Act applies only to transactions between parties each of which has agreed to  
3 conduct transactions by electronic means. Whether the parties agree to conduct a transaction by  
4 electronic means is determined from the context and surrounding circumstances, including the  
5 parties' conduct.

6 Section 9. A party that agrees to conduct a transaction by electronic means may refuse to  
7 conduct other transactions by electronic means. The right granted by this section may not be  
8 waived by agreement.

9 Section 10. Except as otherwise provided in this Act, the effect of any of its provisions may  
10 be varied by agreement. The presence in certain provisions of this Act of the words "unless  
11 otherwise agreed," or words of similar import, does not imply that the effect of other provisions  
12 may not be varied by agreement.

13 Section 11. Whether an electronic record or electronic signature has legal consequences is  
14 determined by this Act and other applicable law.

15 Section 12. This Act shall be construed and applied:

- 16 (1) To facilitate electronic transactions consistent with other applicable law;  
17 (2) To be consistent with reasonable practices concerning electronic transactions and with  
18 the continued expansion of those practices; and  
19 (3) To effectuate its general purpose to make uniform the law with respect to the subject  
20 of this Act among states enacting it.

21 Section 13. No record or signature may be denied legal effect or enforceability solely because  
22 it is in electronic form.

23 Section 14. No contract may be denied legal effect or enforceability solely because an  
24 electronic record was used in its formation.

25 Section 15. If a law requires a record to be in writing, an electronic record satisfies the law.

1 Section 16. If a law requires a signature, an electronic signature satisfies the law.

2 Section 17. If parties have agreed to conduct a transaction by electronic means and a law  
3 requires a person to provide, send, or deliver information in writing to another person, the  
4 requirement is satisfied if the information is provided, sent, or delivered, as the case may be, in  
5 an electronic record capable of retention by the recipient at the time of receipt. An electronic  
6 record is not capable of retention by the recipient if the sender or its information processing  
7 system inhibits the ability of the recipient to print or store the electronic record.

8 Section 18. If a law other than this Act requires a record to be posted or displayed in a  
9 certain manner; to be sent, communicated, or transmitted by a specified method; or to contain  
10 information that is formatted in a certain manner; the following rules apply:

- 11 (1) The record shall be posted or displayed in the manner specified in the other law;
- 12 (2) Except as otherwise provided in section 20 of this Act, the record shall be sent,  
13 communicated, or transmitted by the method specified in the other law;
- 14 (3) The record shall contain the information formatted in the manner specified in the other  
15 law.

16 Section 19. If a sender inhibits the ability of a recipient to store or print an electronic record,  
17 the electronic record is not enforceable against the recipient.

18 Section 20. No requirement of sections 17 to 19, inclusive, of this Act may be varied by  
19 agreement, but:

- 20 (1) To the extent a law other than this Act requires information to be provided, sent, or  
21 delivered in writing but permits that requirement to be varied by agreement, the  
22 requirement under section 17 of this Act that the information be in the form of an  
23 electronic record capable of retention may also be varied by agreement; and
- 24 (2) A requirement under a law other than this Act to send, communicate, or transmit a  
25 record by first-class mail, may be varied by agreement to the extent permitted by the

1 other law.

2 Section 21. An electronic record or electronic signature is attributable to a person if it was  
3 the act of the person. The act of the person may be shown in any manner, including a showing  
4 of the efficacy of any security procedure applied to determine the person to which the electronic  
5 record or electronic signature was attributable.

6 Section 22. The effect of an electronic record or electronic signature attributed to a person  
7 under section 21 of this Act is determined from the context and surrounding circumstances at  
8 the time of its creation, execution, or adoption, including the parties' agreement, if any, and  
9 otherwise as provided by law.

10 Section 23. If a change or error in an electronic record occurs in a transmission between  
11 parties to a transaction, the following rules apply:

12 (1) If the parties have agreed to use a security procedure to detect changes or errors and  
13 one party has conformed to the procedure, but the other party has not, and the  
14 nonconforming party would have detected the change or error had that party also  
15 conformed, the conforming party may avoid the effect of the changed or erroneous  
16 electronic record;

17 (2) In an automated transaction involving an individual, the individual may avoid the  
18 effect of an electronic record that resulted from an error made by the individual in  
19 dealing with the electronic agent of another person if the electronic agent did not  
20 provide an opportunity for the prevention or correction of the error and, at the time  
21 the individual learns of the error, the individual:

22 (a) Promptly notifies the other person of the error and that the individual did not  
23 intend to be bound by the electronic record received by the other person;

24 (b) Takes reasonable steps, including steps that conform to the other person's  
25 reasonable instructions, to return to the other person or, if instructed by the

1 other person, to destroy the consideration received, if any, as a result of the  
2 erroneous electronic record; and

3 (c) Has not used or received any benefit or value from the consideration, if any,  
4 received from the other person;

5 (3) If neither subdivision (1) nor (2) of this section applies, the change or error has the  
6 effect provided by other law, including the law of mistake, and the parties' contract,  
7 if any;

8 (4) Subdivisions (2) and (3) of this section may not be varied by agreement.

9 Section 24. If a law requires a signature or record to be notarized, acknowledged, verified,  
10 or made under oath, the requirement is satisfied if the electronic signature of the person  
11 authorized to perform those acts, together with all other information required to be included by  
12 other applicable law, is attached to or logically associated with the signature or record.

13 Section 25. If a law requires that a record be retained, the requirement is satisfied by  
14 retaining an electronic record of the information in the record which:

15 (1) Accurately reflects the information set forth in the record after it was first generated  
16 in its final form as an electronic record or otherwise; and

17 (2) Remains accessible for later reference.

18 Section 26. A requirement to retain a record in accordance with section 25 of this Act does  
19 not apply to any information the sole purpose of which is to enable the record to be sent,  
20 communicated, or received.

21 Section 27. A person may satisfy section 25 of this Act by using the services of another  
22 person if the requirements of that subsection are satisfied.

23 Section 28. If a law requires a record to be presented or retained in its original form, or  
24 provides consequences if the record is not presented or retained in its original form, that law is  
25 satisfied by an electronic record retained in accordance with section 25 of this Act.

1 Section 29. If a law requires retention of a check, that requirement is satisfied by retention  
2 of an electronic record of the information on the front and back of the check in accordance with  
3 section 25 of this Act.

4 Section 30. A record retained as an electronic record in accordance with section 25 of this  
5 Act satisfies a law requiring a person to retain a record for evidentiary, audit, or like purposes,  
6 unless a law enacted after the effective date of this Act specifically prohibits the use of an  
7 electronic record for the specified purpose. This section does not preclude a governmental  
8 agency of this state from specifying additional requirements for the retention of a record subject  
9 to the agency's jurisdiction.

10 Section 31. In a proceeding, no evidence of a record or signature may be excluded solely  
11 because it is in electronic form.

12 Section 32. In an automated transaction, the following rules apply:

- 13 (1) A contract may be formed by the interaction of electronic agents of the parties, even  
14 if no individual was aware of or reviewed the electronic agents' actions or the  
15 resulting terms and agreements;
- 16 (2) A contract may be formed by the interaction of an electronic agent and an individual,  
17 acting on the individual's own behalf or for another person, including by an  
18 interaction in which the individual performs actions that the individual is free to refuse  
19 to perform and which the individual knows or has reason to know will cause the  
20 electronic agent to complete the transaction or performance;
- 21 (3) The terms of the contract are determined by the substantive law applicable to it.

22 Section 33. Unless otherwise agreed between the sender and the recipient, an electronic  
23 record is sent when it:

- 24 (1) Is addressed properly or otherwise directed properly to an information processing  
25 system that the recipient has designated or uses for the purpose of receiving electronic

1 records or information of the type sent and from which the recipient is able to retrieve  
2 the electronic record;

3 (2) Is in a form capable of being processed by that system; and

4 (3) Enters an information processing system outside the control of the sender or of a  
5 person that sent the electronic record on behalf of the sender or enters a region of the  
6 information processing system designated or used by the recipient which is under the  
7 control of the recipient.

8 Section 34. Unless otherwise agreed between a sender and the recipient, an electronic record  
9 is received when:

10 (1) It enters an information processing system that the recipient has designated or uses  
11 for the purpose of receiving electronic records or information of the type sent and  
12 from which the recipient is able to retrieve the electronic record; and

13 (2) It is in a form capable of being processed by that system.

14 Section 35. Section 34 of this Act applies even if the place the information processing system  
15 is located is different from the place the electronic record is deemed to be received under section  
16 36 of this Act.

17 Section 36. Unless otherwise expressly provided in the electronic record or agreed between  
18 the sender and the recipient, an electronic record is deemed to be sent from the sender's place  
19 of business and to be received at the recipient's place of business. For purposes of this section,  
20 the following rules apply:

21 (1) If the sender or recipient has more than one place of business, the place of business  
22 of that person is the place having the closest relationship to the underlying transaction;

23 (2) If the sender or the recipient does not have a place of business, the place of business  
24 is the sender's or recipient's residence, as the case may be.

25 Section 37. An electronic record is received under section 34 of this Act even if no individual

1 is aware of its receipt.

2 Section 38. Receipt of an electronic acknowledgment from an information processing system  
3 described in section 34 of this Act establishes that a record was received but, by itself, does not  
4 establish that the content sent corresponds to the content received.

5 Section 39. If a person is aware that an electronic record purportedly sent under section 33  
6 of this Act, or purportedly received under section 34 of this Act, was not actually sent or  
7 received, the legal effect of the sending or receipt is determined by other applicable law. Except  
8 to the extent permitted by the other law, the requirements of this section may not be varied by  
9 agreement.

10 Section 40. For purposes of this Act, the term, transferable record, means an electronic  
11 record that:

12 (1) Would be a note under Article 3 of the Uniform Commercial Code or a document  
13 under Article 7 of the Uniform Commercial Code if the electronic record were in  
14 writing; and

15 (2) The issuer of the electronic record expressly has agreed is a transferable record.

16 Section 41. A person has control of a transferable record if a system employed for evidencing  
17 the transfer of interests in the transferable record reliably establishes that person as the person  
18 to which the transferable record was issued or transferred.

19 Section 42. A system satisfies section 41 of this Act, and a person is deemed to have control  
20 of a transferable record, if the transferable record is created, stored, and assigned in such a  
21 manner that:

22 (1) A single authoritative copy of the transferable record exists that is unique, identifiable,  
23 and, except as otherwise provided in subdivisions (4), (5), and (6) of this section,  
24 unalterable;

25 (2) The authoritative copy identifies the person asserting control as:

- 1 (a) The person to which the transferable record was issued; or
- 2 (b) If the authoritative copy indicates that the transferable record has been
- 3 transferred, the person to which the transferable record was most recently
- 4 transferred;
- 5 (3) The authoritative copy is communicated to and maintained by the person asserting
- 6 control or its designated custodian;
- 7 (4) Copies or revisions that add or change an identified assignee of the authoritative copy
- 8 can be made only with the consent of the person asserting control;
- 9 (5) Each copy of the authoritative copy and any copy of a copy is readily identifiable as
- 10 a copy that is not the authoritative copy; and
- 11 (6) Any revision of the authoritative copy is readily identifiable as authorized or
- 12 unauthorized.

13 Section 43. Except as otherwise agreed, a person having control of a transferable record is  
14 the holder, as defined in Section 1-201(20) of the Uniform Commercial Code, of the transferable  
15 record and has the same rights and defenses as a holder of an equivalent record or writing under  
16 the Uniform Commercial Code, including, if the applicable statutory requirements under Section  
17 3-302(a), 7-501, or 9-308 of the Uniform Commercial Code are satisfied, the rights and defenses  
18 of a holder in due course, a holder to which a negotiable document of title has been duly  
19 negotiated, or a purchaser, respectively. Delivery, possession, and indorsement are not required  
20 to obtain or exercise any of the rights under this section.

21 Section 44. Except as otherwise agreed, an obligor under a transferable record has the same  
22 rights and defenses as an equivalent obligor under equivalent records or writings under the  
23 Uniform Commercial Code.

24 Section 45. If requested by a person against which enforcement is sought, the person seeking  
25 to enforce the transferable record shall provide reasonable proof that the person is in control of

1 the transferable record. Proof may include access to the authoritative copy of the transferable  
2 record and related business records sufficient to review the terms of the transferable record and  
3 to establish the identity of the person having control of the transferable record.

4 Section 46. Each governmental agency shall determine whether, and the extent to which, it  
5 will create and retain electronic records and convert written records to electronic records.

6 Section 47. To the extent that a governmental agency uses electronic records and electronic  
7 signatures under this Act, the commissioner of the Bureau of Information and  
8 Telecommunications shall promulgate rules pursuant to chapter 1-26 to specify for state  
9 agencies:

- 10 (1) The manner and format in which the electronic records shall be created, generated,  
11 sent, communicated, received, and stored and the systems established for those  
12 purposes;
- 13 (2) If electronic records must be signed by electronic means, the type of electronic  
14 signature required, the manner and format in which the electronic signature must be  
15 affixed to the electronic record, and the identity of, or criteria that must be met by,  
16 any third party used by a person filing a document to facilitate the process;
- 17 (3) Control processes and procedures as appropriate to ensure adequate preservation,  
18 disposition, integrity, security, confidentiality, and auditability of electronic records;  
19 and
- 20 (4) Any other required attributes for electronic records which are specified for  
21 corresponding nonelectronic records or reasonably necessary under the circumstances.

22 Section 48. With respect to records under its control, and except as otherwise provided in  
23 section 30 of this Act, the Board of Regents shall determine whether, and the extent to which,  
24 the board and the institutions under the board's control shall send and accept electronic records  
25 and electronic signatures to and from other persons and otherwise create, generate,

1 communicate, store, process, use, and rely upon electronic records and electronic signatures. In  
2 administering such records, the board may exercise those powers specified in sections 47 and 50  
3 of this Act. However, any public records as defined in § 13-49-31 that the board elects to  
4 maintain in electronic form shall be accessible to the public in conformity with the rules the  
5 commissioner of the Bureau of Information and Telecommunications promulgates pursuant to  
6 sections 47 and 50 of this Act.

7 Section 49. Except as otherwise provided in section 30 of this Act, this Act does not require  
8 a governmental agency to use or permit the use of electronic records or electronic signatures.

9 Section 50. The commissioner of the Bureau of Information and Telecommunications may  
10 encourage and promote consistency and interoperability with similar requirements adopted by  
11 other governmental agencies of this and other states and the federal government and  
12 nongovernmental persons interacting with governmental agencies of this state. If appropriate,  
13 those standards may specify differing levels of standards from which governmental agencies of  
14 this state may choose in implementing the most appropriate standard for a particular application.

1 **BILL HISTORY**

2 1/24/00 First read in Senate and referred to State Affairs. S.J. 168

3 1/28/00 Scheduled for Committee hearing on this date.

4 1/31/00 Scheduled for Committee hearing on this date.

5 2/2/00 Scheduled for Committee hearing on this date.

6 2/2/00 State Affairs Do Pass Amended, Passed, AYES 8, NAYS 0. S.J. 278