

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

995D0438

SENATE RETIREMENT LAWS COMMITTEE

ENGROSSED NO. **HB1156** - 2/16/00

Introduced by: Representatives Michels, Davis, Diedrich (Larry), Fiegen, and Fischer-Clemens
and Senators Brown (Arnold), Albers, Lawler, and Olson

1 FOR AN ACT ENTITLED, An Act to repeal certain provisions relating to the deferred
2 compensation fund for public employees and to grant certain authorities to the state
3 investment officer.

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

5 Section 1. That § 3-13-51 be repealed.

6 ~~3-13-51. Notwithstanding any other provision of law, funds held by the fund may be invested~~
7 ~~in such investments as are deemed appropriate by the board including, but not limited to, annuity~~
8 ~~contracts. At the discretion of the board, such funds may be invested, in whole or in part, by the~~
9 ~~South Dakota investment council.~~

10 Section 2. That chapter 3-13 be amended by adding thereto a NEW SECTION to read as
11 follows:

12 Funds held by the fund may be invested by plan participants in such investments as are
13 deemed appropriate by the state investment officer, including, but not limited to, annuity
14 contracts. The state investment officer is authorized to enter into contracts for investment
15 alternatives and to offer internal investment alternatives, and the plan administrator is authorized
16 to transfer funds to, from, and among the respective investment alternatives. The state

1 investment officer shall be held to the standard of conduct of a fiduciary and shall carry out all
2 functions solely in the interests of the participants and benefit recipients and for the exclusive
3 purpose of providing benefits and defraying reasonable expenses incurred in performing such
4 duties as required by law.

5 Section 3. That § 4-5-26 be amended to read as follows:

6 4-5-26. Money made available for investment may be invested in the following classes of
7 securities and investments and, except as provided by § 3-12-117, chapter 3-13, and the South
8 Dakota cement plant retirement fund, not otherwise:

- 9 (1) Direct and indirect obligations of the United States government;
- 10 (2) Agencies and instrumentalities of the United States government;
- 11 (3) Direct obligations of the State of South Dakota and any of its political subdivisions;
- 12 (4) Obligations consisting of notes, bonds, debentures, and certificates which are direct
13 obligations of a solvent corporation or trust existing under the laws of the United
14 States or any state thereof, provided that such investments shall be rated in the four
15 highest classifications established by at least two standard rating services;
- 16 (5) Savings accounts, share accounts, certificates of deposit of banks, savings and loan
17 associations, building and loan associations and bankers' acceptances.

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

20 The administrator shall execute any agreements as are necessary to carry out the provisions
21 of this chapter, except such agreements as are executed by the state investment officer pursuant
22 to section 2 of this Act. Any contract for an investment alternative in effect on July 1, 2000, is
23 hereby transferred by operation of law to the state investment officer as of July 1, 2000.

24 Section 5. That chapter 3-13 be amended by adding thereto a NEW SECTION to read as
25 follows:

1 If a contract with a vendor terminates and a participant fails to notify the third-party
2 administrator of the participant's new investment selection before the contract terminates, the
3 third-party administrator shall transfer that participant's account to the investment alternative
4 designated by the state investment officer.

1 **BILL HISTORY**

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

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

4 1/27/00 Retirement Laws Do Pass, Passed, AYES 3, NAYS 2. H.J. 284

5 1/31/00 House of Representatives Deferred to another day. H.J. 318

6 2/1/00 House of Representatives Do Pass, Passed, AYES 49, NAYS 21. H.J. 347

7 2/2/00 First read in Senate and referred to Retirement Laws. S.J. 299

8 2/14/00 Scheduled for Committee hearing on this date.

9 2/14/00 Retirement Laws Do Pass Amended, Passed, AYES 3, NAYS 2. S.J. 493

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

248D0565

SENATE TRANSPORTATION COMMITTEE

ENGROSSED NO. **HB1212** - 2/16/00

Introduced by: Representatives Young, Apa, and Napoli

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding dealer franchises to
2 include motorcycles, boats, personal watercraft, all-terrain vehicles, and snowmobiles.

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

4 Section 1. That § 37-5-5 be amended to read as follows:

5 37-5-5. If any person, firm, or corporation, or their successors, engaged in the business of
6 selling and retailing farm implements or machinery and repair parts for farm implements or
7 machinery, or in the business of selling and retailing industrial and construction equipment and
8 repair parts for industrial and construction equipment, or in the business of selling and retailing
9 office furniture, equipment, and supplies and repair parts for office furniture, equipment, and
10 supplies, or in the business of selling and retailing automobiles, trucks, ~~or motorcycles, boats,~~
11 personal watercraft, all-terrain vehicles, or snowmobiles or repair parts for automobiles, trucks,
12 ~~or motorcycles, boats, personal watercraft, all-terrain vehicles, or snowmobiles~~ enters into a
13 written contract evidenced by franchised agreement, sales agreement, dealer agreement, or
14 security agreement or other form of agreement or arrangement of like effect, the term, contract,
15 as used in §§ 37-5-5 to 37-5-9, inclusive, means any of the foregoing and their successors. If
16 such person, firm, or corporation, or their successors maintains a stock of parts or complete or

1 whole machines, or attachments with any wholesaler, manufacturer, or distributor of farm
2 implements or machinery or repair parts therefor, or industrial and construction equipment or
3 repair parts therefor, or office furniture, equipment, and supplies or repair parts therefor, or
4 automobiles ~~or~~, trucks, motorcycles, boats, personal watercraft, all-terrain vehicles, or
5 snowmobiles, or repair parts therefor, and either the wholesaler, manufacturer, or distributor,
6 or their successors, or the retailer, or successor, desires to cancel or discontinue the contract,
7 such wholesaler, manufacturer, or distributor, or successor, shall pay to the retailer, or successor,
8 unless the retailer, or successor, should desire to keep the merchandise, a sum equal to one
9 hundred percent of the net cost of all current unused complete farm implements, machinery and
10 attachments, industrial and construction equipment and attachments, office furniture, equipment,
11 and supplies, and attachments, and automobiles ~~and~~, trucks, motorcycles, boats, personal
12 watercraft, all-terrain vehicles, and snowmobiles, including transportation charges which have
13 been paid by the retailer and eighty-five percent of the current net prices on repair parts,
14 including superseded parts, listed in current price list or catalog which parts had previously been
15 purchased from the wholesaler, manufacturer, or distributor, or predecessor, and held by the
16 retailer on the date of the cancellation or discontinuance of the contract. The wholesaler,
17 manufacturer, or distributor, or successor, shall also pay the retailer a sum equal to five percent
18 of the current net price of all parts returned for the handling, packing and loading of the parts
19 back to the wholesaler, manufacturer, or distributor. Upon the payment of the sum equal to one
20 hundred percent of the net cost of the farm implements, machinery and attachments, industrial
21 and construction equipment and attachments, office furniture, equipment, and supplies, and
22 attachments, and automobiles ~~and~~, trucks, motorcycles, boats, personal watercraft, all-terrain
23 vehicles, and snowmobiles, plus transportation charges and eighty-five percent of the current net
24 prices on repair parts, plus five percent handling and loading costs on repair parts only, plus
25 freight charges which have been paid by the retailer, or automobiles ~~or~~, trucks, motorcycles,

1 boats, personal watercraft, all-terrain vehicles, or snowmobiles, plus freight charges, or repair
2 parts therefor, plus five percent handling and loading costs on repair parts only, the title to the
3 farm implements, farm machinery, industrial and construction equipment, office furniture,
4 equipment, and supplies, and repair parts, or automobiles, ~~or trucks,~~ motorcycles, boats, personal
5 watercraft, all-terrain vehicles, or snowmobiles, or parts therefor, shall pass to the manufacturer,
6 wholesaler, or distributor making the payment, and the manufacturer, wholesaler, or distributor,
7 is entitled to the possession of the farm implements, industrial and construction equipment, office
8 furniture, equipment, and supplies, or automobiles ~~or,~~ trucks, motorcycles, boats, personal
9 watercraft, all-terrain vehicles, or snowmobiles, or repair parts therefor.

10 Section 2. That § 37-5-7 be amended to read as follows:

11 37-5-7. The prices of farm implements, machinery, and repair parts therefor, and of industrial
12 and construction equipment and repair parts therefor, and of office furniture, equipment, and
13 supplies and repair parts therefor, and of automobiles, trucks, motorcycles, boats, personal
14 watercraft, all-terrain vehicles, or snowmobiles, and repair parts therefor, required to be paid to
15 any retail dealer as provided in § 37-5-5, shall be determined by taking one hundred percent of
16 the net cost on farm implements, machinery, and attachments, industrial and construction
17 equipment, and attachments, office furniture, equipment, and supplies, and attachments,
18 automobiles ~~and,~~ trucks, ~~and~~ motorcycles, boats, personal watercraft, all-terrain vehicles, and
19 snowmobiles, and eighty-five percent of the current net price of repair parts therefor as shown
20 upon the manufacturer's, wholesaler's, or distributor's price lists or catalogues in effect at the
21 time the contract is canceled or discontinued. For purposes of §§ 37-5-5 to 37-5-9, inclusive, if
22 any retailer, of farm implements or machinery or repair parts therefor, has actual proof of
23 purchase of any repair parts or other merchandise from any manufacturer, wholesaler, or
24 distributor, or its predecessor, the repair parts even though not currently listed in any price list
25 or catalog and all other merchandise, purchased within ten years of the dealership cancellation

1 or termination shall be repurchased at the original purchase price.

2 Section 3. That § 37-5-8 be amended to read as follows:

3 37-5-8. If any manufacturer, wholesaler, or distributor of farm machinery, farm implements,
4 and repair parts for farm machinery, and farm implements, or of industrial and construction
5 equipment and repair parts for industrial and construction equipment, or of office furniture,
6 equipment, and supplies and repair parts for office furniture, equipment, and supplies, or of
7 automobiles, trucks, motorcycles, boats, personal watercraft, all-terrain vehicles, and
8 snowmobiles, and repair parts therefor, or their successors, upon cancellation of a contract by
9 either a retailer or a manufacturer, wholesaler, or distributor, or their successor, fails or refuses
10 to make payment to the dealer as is required by § 37-5-5, or refuses to supply farm machinery,
11 farm implements, and repair parts for farm machinery and farm implements, or industrial and
12 construction equipment, and repair parts for industrial and construction equipment, or of office
13 furniture, equipment, and supplies and repair parts for office furniture, equipment, and supplies,
14 or automobiles ~~or~~, trucks, ~~or~~ motorcycles, boats, personal watercraft, all-terrain vehicles, or
15 snowmobiles, or repair parts therefor, to any retailer of the products, who may have a retail sales
16 contract dated after July 1, 1969, in the case of contracts covering farm machinery, implements
17 and attachments or automobiles and trucks or after July 1, 1970, in the case of contracts
18 covering industrial and construction equipment and attachments or after July 1, 1995, in the case
19 of contracts covering office furniture, equipment, and supplies, or after July 1, 1973, in the case
20 of contracts covering motorcycles, or after July 1, 2000, in the case of contracts covering boats,
21 personal watercraft, all-terrain vehicles, or snowmobiles, or a contract with no expiration date
22 or a continuing contract in force or effect on July 1, 1969, in the case of contracts covering farm
23 machinery, implements and attachments or automobiles and trucks or in force and effect on
24 July 1, 1970, in the case of contracts covering industrial and construction equipment and
25 attachments, or in force and effect on July 1, 1995, in the case of contracts covering office

1 furniture, equipment, and supplies, or in force and effect on July 1, 1973, in the case of contracts
2 covering motorcycles, or after July 1, 2000, in the case of contracts covering boats, personal
3 watercraft, all-terrain vehicles, or snowmobiles, with the manufacturer, wholesaler, or
4 distributor, the manufacturer, wholesaler, or distributor, or their successor, is liable in a civil
5 action to be brought by the retailer for one hundred percent of the net cost of the farm
6 implements, machinery and attachments, industrial and construction equipment and attachments,
7 office furniture, equipment, and supplies and attachments, automobiles and trucks, and
8 motorcycles, or after July 1, 2000, in the case of contracts covering boats, personal watercraft,
9 all-terrain vehicles, or snowmobiles, plus transportation charges which have been paid by the
10 retailer and eighty-five percent of the current net price of repair parts, plus five percent for
11 handling and loading plus freight charges which have been paid by the retailer.

12 Section 4. That § 37-5-9 be amended to read as follows:

13 37-5-9. In the event of the death of the retail dealer or majority stockholder in a corporation
14 operating a retail dealership in the business of selling and retailing farm implements or repair
15 parts for farm implements, or in the business of selling industrial and construction equipment or
16 repair parts therefor, or in the business of selling and retailing office furniture, equipment, and
17 supplies or repair parts therefor, or in the business of selling and retailing automobiles ~~or,~~ trucks
18 ~~or,~~ motorcycles, boats, personal watercraft, all-terrain vehicles, or snowmobiles, or repair parts
19 therefor, the wholesaler, distributor, or manufacturer who supplied the merchandise, or its
20 successor, shall repurchase from the heir or heirs of the retail dealer or majority stockholder the
21 merchandise at a sum equal to one hundred percent of the net cost of all current unused complete
22 farm implements, machinery and attachments, industrial and construction equipment and
23 attachments, office furniture, equipment, and supplies and attachments, and automobiles ~~and,~~
24 trucks, ~~and~~ motorcycles, boats, personal watercraft, all-terrain vehicles, and snowmobiles,
25 including transportation charges which have been paid by the retailer, and eighty-five percent of

1 the current net prices on repair parts, including superseded parts, listed in current price lists or
2 catalogues, plus a sum equal to five percent of the current net price of all parts returned for
3 handling, packing, and loading of the parts, unless the heir or heirs agree to continue to operate
4 the retail dealership. If the heir or heirs do not agree to continue to operate the retail dealership,
5 it is deemed a cancellation or discontinuance of contract by the retailer under the provisions of
6 § 37-5-5, and as such the heir or heirs may exercise any rights and privileges under §§ 37-5-5
7 to 37-5-9, inclusive.

1 **BILL HISTORY**

2 1/19/00 First read in House and referred to committee assignment waived. H.J. 143

3 1/20/00 Referred to Judiciary.

4 1/26/00 House of Representatives Referred to Commerce.

5 2/3/00 Scheduled for Committee hearing on this date.

6 2/3/00 Commerce Do Pass, Passed, AYES 12, NAYS 0. H.J. 403

7 2/4/00 House of Representatives Deferred to another day. H.J. 433

8 2/7/00 House of Representatives Do Pass, Passed, AYES 65, NAYS 1. H.J. 459

9 2/8/00 First read in Senate and referred to Transportation. S.J. 360

10 2/15/00 Scheduled for Committee hearing on this date.

11 2/15/00 Transportation Do Pass Amended, Passed, AYES 6, NAYS 0. S.J. 491

12 2/15/00 Transportation Place on Consent Calendar.

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

337D0145

SENATE HEALTH AND HUMAN SERVICES
COMMITTEE ENGROSSED NO. **HB1280** - 2/15/00

Introduced by: Representatives Putnam, Broderick, Michels, and Wudel and Senators Albers,
Bogue, Drake, Frederick, and Moore

1 FOR AN ACT ENTITLED, An Act to increase the penalty for certain violations regarding vital
2 records and the disposition of dead bodies.

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

4 Section 1. That § 34-25-57 be amended to read as follows:

5 34-25-57. ~~Any~~ No person, officer, agent, or employee of any other person or of any
6 corporation or partnership ~~who shall~~ may:

7 (1) Inter, cremate, or otherwise finally dispose of a dead body of a human being or permit
8 the same to be done or ~~shall~~ remove ~~said~~ the body from the state without authority
9 of a burial or removal permit;

10 (2) Refuse or fail to furnish ~~correctly~~ any information in ~~his~~ such person's possession or
11 ~~shall~~ furnish false information affecting any certificate or record required by this
12 chapter;

13 (3) Intentionally falsify any certificate of birth, death, or burial or removal permit or any
14 record required by this chapter;

15 (4) Being required by this chapter to fill out a certificate of birth or death and file the
16 ~~same~~ certificate with the local registrar or deliver it upon request to any person

1 charged with the duty of filing the ~~same shall~~ certificate, fail, neglect, or refuse to
2 perform;

3 (5) Being a local registrar or deputy registrar, fail, neglect, or refuse to perform ~~his~~ the
4 duty as required by this chapter or by the rules ~~and regulations~~ adopted by the
5 secretary of health or by the instructions and directions of the department;

6 ~~is guilty of a Class 2 misdemeanor~~ A violation of this section is a Class 1 misdemeanor.

1 **BILL HISTORY**

2 1/24/00 First read in House and referred to committee assignment waived. H.J. 199

3 1/25/00 Referred to Health and Human Services.

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

5 2/4/00 Health and Human Services Do Pass, Passed, AYES 11, NAYS 0. H.J. 413

6 2/4/00 Health and Human Services Place on Consent Calendar.

7 2/7/00 House of Representatives Do Pass, Passed, AYES 64, NAYS 1. H.J. 440

8 2/8/00 First read in Senate and referred to Health and Human Services. S.J. 360

9 2/14/00 Scheduled for Committee hearing on this date.

10 2/14/00 Health and Human Services Do Pass Amended, Passed, AYES 4, NAYS 0. S.J. 470

11 2/14/00 Health and Human Services Place on Consent Calendar.

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

375D0839

HOUSE AGRICULTURE AND NATURAL RESOURCES COMMITTEE ENGROSSED NO. **HCR1016** - 2/18/00

Introduced by: Representatives Diedtrich (Elmer), Broderick, Brooks, Chicoine, Duniphan, Engbrecht, Garnos, Hagen, Hanson, Jaspers, Kazmerzak, McNenny, Peterson, Smidt, Sutton (Duane), Volesky, Weber, and Wetz and Senators Frederick, Albers, Brown (Arnold), Duxbury, Hutmacher, Shoener, and Symens

1 A CONCURRENT RESOLUTION, Supporting the amendment of federal laws and regulations
2 to encourage biological processing as a form of value-added agricultural development.

3 WHEREAS, farmers and ranchers operating as cooperatives seek to add value to agricultural
4 commodities; and

5 WHEREAS, the feeding of agricultural commodities to livestock produces a higher valued
6 product in the form of livestock and livestock products; and

7 WHEREAS, this process is recognized as biological processing; and

8 WHEREAS, the United States Internal Revenue Code of 1986 does not recognize biological
9 processing as a value-added agricultural industry marketing tool; and

10 WHEREAS, there are other statutory or regulatory definitions in federal programs such as
11 the Small Business Administration and United States Department of Agriculture that do not
12 recognize biological processing as a form of value-added agricultural development creating a
13 barrier to value-added agricultural development:

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

1 Dakota Legislature requests the United States Congress to enact legislation amending § 1388
2 of the Internal Revenue Code of 1986 and other federal laws and regulations to include
3 biological processing as a means of value-added processing through animals.

1 **BILL HISTORY**

2 2/17/00 Scheduled for Committee hearing on this date.

3 2/17/00 Agriculture and Natural Resources Adopt Resolution as Amended, AYES 12, NAYS

4 0. H.J. 718

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

256D0068

SENATE HEALTH AND HUMAN SERVICES COMMITTEE ENGROSSED NO. **SB5** - 2/8/00

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

Introduced by: Senator Drake and Representatives Monroe, Fryslie, Peterson, Volesky, and Weber at the request of the Interim Health Insurance Committee

1 FOR AN ACT ENTITLED, An Act to require certain reforms of health benefit plans issued
2 before July 1, 1996.

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

4 Section 1. Any health benefit plan issued before July 1, 1996, is subject to the rating
5 limitations provided in this section. For a class of business, the premium rates charged during a
6 rating period to individuals with similar case characteristics for the same or similar coverage, or
7 the rates that could be charged to such individuals under the rating system for that class of
8 business, may not exceed three times the base premium rate after July 1, 2001, two and one-half
9 times the base premium rate after July 1, 2003, and two times the base premium rate after July 1,
10 2005.

1 **BILL HISTORY**

2 1/11/00 First read in Senate and referred to Health and Human Services. S.J. 14

3 1/15/00 Scheduled for Committee hearing on this date.

4 1/15/00 Deferred by Chair.

5 1/24/00 Scheduled for Committee hearing on this date.

6 1/24/00 Deferred by Chair.

7 1/26/00 Scheduled for Committee hearing on this date.

8 1/26/00 Deferred by Chair.

9 2/7/00 Health and Human Services Hog Housed.

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

11 2/7/00 Health and Human Services Do Pass Amended, Passed, AYES 5, NAYS 1. S.J. 337

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

400D0338

HOUSE EDUCATION COMMITTEE ENGROSSED NO. **SB23** - 2/18/00

Introduced by: The Committee on Education at the request of the Department of Education
and Cultural Affairs

1 FOR AN ACT ENTITLED, An Act to allow certain children to be included as a level two, three,
2 four, or five disability for the purpose of calculating special education state aid, to revise the
3 calculation of state aid to education, to provide additional funds for education salaries, to
4 reduce state aid to education for certain school districts, and to provide that certain funds
5 remain in the general fund.

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

7 Section 1. That § 13-37-36.2 be amended to read as follows:

8 13-37-36.2. For the purpose of calculating state aid pursuant to this chapter, a level five
9 disability ~~must~~ shall meet criteria for at least two disability categories in levels two and three,
10 excluding the disability of deaf-blindness. ~~Any child reported on the child count between ages~~
11 ~~three to five years old, inclusive, may not be included as either a level two, three, four, or five~~
12 ~~disability.~~

13 Section 2. That § 13-13-10.1 be amended to read as follows:

14 13-13-10.1. Terms used in this chapter mean:

15 (1) "General enrollment average daily membership," the average number of resident and
16 nonresident kindergarten through twelfth grade pupils enrolled in all schools operated

1 by the school district during the previous regular school year, minus average number
2 of pupils for whom the district receives tuition, except pupils described in subdivision
3 (1A) and pupils for whom tuition is being paid pursuant to § 13-28-42 and plus the
4 average number of pupils for whom the district pays tuition, except pupils for whom
5 the district pays tuition pursuant to § 13-28-42;

6 (1A) Nonresident students who are in the care and custody of the Department of Social
7 Services, the Unified Judicial System, the Department of Corrections, or other state
8 agencies and are attending a public school may be included in the average daily
9 membership of the receiving district when enrolled in the receiving district. When
10 counting a student who meets these criteria in its general enrollment average daily
11 membership, the receiving district may begin the enrollment on the first day of
12 attendance. The district of residence prior to the custodial transfer may not include
13 students who meet these criteria in its general enrollment average daily membership
14 after the student ceases to attend school in the resident district;

15 (2) "Adjusted average daily membership," calculated as follows:

16 (a) For districts with a general enrollment average daily membership of two
17 hundred or less, multiply 1.2 times the general enrollment average daily
18 membership;

19 (b) For districts with a general enrollment average daily membership of less than
20 six hundred, but greater than two hundred, raise the general enrollment average
21 daily membership to the 0.8293 power and multiply the result times 2.98;

22 (c) For districts with a general enrollment average daily membership of six hundred
23 or more, multiply 1.0 times their general enrollment average daily membership;

24 (3) "Index factor," is the annual percentage change in the consumer price index for urban
25 wage earners and clerical workers as computed by the Bureau of Labor Statistics of

1 the United States Department of Labor for the year before the year immediately
2 preceding the year of adjustment or three percent, whichever is less;

3 (4) "Per student allocation," for the period January 1, 1997, to June 30, 1997, inclusive,
4 is \$1,675. For school fiscal year ~~1998~~ 2001, beginning on July 1, ~~1997~~ 2000, the per
5 student allocation shall be ~~\$3,350~~ increased by the index factor \$3,734. Each school
6 fiscal year thereafter, the per student allocation shall be the previous fiscal year's per
7 student allocation increased by the index factor;

8 (5) "Local need," the per student allocation multiplied by the adjusted average daily
9 membership;

10 (6) "Local effort," the amount of ad valorem taxes generated in a school fiscal year by
11 applying the levies established pursuant to § 10-12-42.

12 Section 3. Each school district shall use any funds that it may receive as a result of the
13 increase in the per student allocation as provided in this Act to increase salaries of personnel
14 employed by the school district.

15 Section 4. The Department of Education and Cultural Affairs shall certify the increase in state
16 aid to education attributable to the increase in the per student allocation as provided in this Act
17 to each school district.

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

20 For the state aid to education distribution for the fiscal year ending June 30, 2001, a school
21 district's entitlement for state aid provided for in this chapter shall be reduced by the amount by
22 which the school district's ending general fund balance exceeds one hundred percent of its
23 general fund expenditures or two hundred fifty thousand dollars, whichever is greater, for the
24 school fiscal year prior to the school fiscal year for which state aid to education is to be
25 distributed. For the state aid to education distribution for the fiscal year ending June 30, 2002,

1 a school district's entitlement for state aid provided for in this chapter shall be reduced by the
2 amount by which the school district's ending general fund balance exceeds seventy-five percent
3 of its general fund expenditures or two hundred fifty thousand dollars, whichever is greater, for
4 the school fiscal year prior to the school fiscal year for which state aid to education is to be
5 distributed. For the state aid to education distribution for the fiscal year ending June 30, 2003,
6 a school district's entitlement for state aid provided for in this chapter shall be reduced by the
7 amount by which the school district's ending general fund balance exceeds fifty percent of its
8 general fund expenditures or two hundred fifty thousand dollars, whichever is greater, for the
9 school fiscal year prior to the school fiscal year for which state aid to education is to be
10 distributed. For the state aid to education distribution for the fiscal year ending June 30, 2004
11 and thereafter, a school district's entitlement for state aid provided for in this chapter shall be
12 reduced by the amount by which the school district's ending general fund balance exceeds thirty
13 percent of its general fund expenditures or two hundred fifty thousand dollars, whichever is
14 greater, for the school fiscal year prior to the school fiscal year for which state aid to education
15 is to be distributed.

16 Section 6. Any money that is reduced from a school district's entitlement as provided by this
17 Act shall be deposited into the education improvement fund which is hereby created as a special
18 fund in the state treasury. The expenditure of any money out of the education improvement fund
19 requires specific approval through an enactment of the Legislature. The Legislature may
20 appropriate money out of the education improvement fund for purposes deemed by the
21 Legislature to improve the overall quality of elementary and secondary education in South
22 Dakota.

23 Section 7. That chapter 4-8A be amended by adding thereto a NEW SECTION to read as
24 follows:

25 No money appropriated for general state aid to education that is in excess of the amount

1 required to provide each school district its entitlement that results from errors in the estimates
2 of average daily membership or of assessed valuations may be transferred out of the state aid to
3 general education program. Such money shall revert to the general fund at the end of the fiscal
4 year and notwithstanding § 4-7-32 or 4-7-39, such money may not be transferred to the budget
5 reserve fund or to the property tax reduction fund.

6 Section 8. The Department of Education and Cultural Affairs may promulgate rules pursuant
7 to chapter 1-26 to define general fund balances for the purposes for which the term is used in this
8 Act.

1 **BILL HISTORY**

2 1/11/00 First read in Senate and referred to Education. S.J. 18

3 1/30/00 Scheduled for Committee hearing on this date.

4 2/3/00 Scheduled for Committee hearing on this date.

5 2/8/00 Scheduled for Committee hearing on this date.

6 2/8/00 Education Do Pass, Passed, AYES 7, NAYS 0. S.J. 349

7 2/8/00 Education Place on Consent Calendar.

8 2/9/00 Senate Do Pass, Passed, AYES 35, NAYS 0. S.J. 382

9 2/10/00 First read in House and referred to Education. H.J. 563

10 2/15/00 Scheduled for Committee hearing on this date.

11 2/15/00 Deferred by Chair.

12 2/17/00 Scheduled for Committee hearing on this date.

13 2/17/00 Education Do Pass Amended, Passed, AYES 10, NAYS 3. H.J. 714

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

664D0204

HOUSE JUDICIARY COMMITTEE

ENGROSSED NO. **SB60** - 2/17/00

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 Hennies, Apa, and Engbrecht

1 FOR AN ACT ENTITLED, An Act to revise the provisions for motorcycle instruction permits

2 and to provide for the issuance of restricted motorcycle minor's permits.

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

4 Section 1. That § 32-12-11 be amended to read as follows:

5 32-12-11. Any person who is at least fourteen years of age but less than eighteen years of
6 age applying for a South Dakota driver's license who does not currently hold a driver's license,
7 except a motorcycle license, that has been valid continuously for one hundred eighty days, shall
8 apply to the Department of Commerce and Regulation for an instruction permit which shall be
9 held for a minimum of one hundred eighty continuous days. The department may, after the
10 applicant has successfully passed all parts of the examination other than the driving test and paid
11 a fee which is equal in amount to the fee prescribed for a driver's license in § 32-12-16, issue to
12 the applicant an instruction permit. The instruction permit entitles the applicant while having the
13 permit in the applicant's immediate possession to drive a motor vehicle upon the public highways
14 for a period of one year if accompanied by a licensed operator who is at least eighteen years of
15 age, has had at least one year of driving experience, and who is occupying a seat beside the

1 driver. The holder of an instruction permit may apply for a restricted permit or operator's license
2 after holding a valid instruction permit for one hundred eighty continuous days. A motorcycle
3 instruction permit entitles the holder, while having the permit in the permit holder's immediate
4 physical possession, to operate a motorcycle during the hours of 6 a.m. to 8 p.m. if the permit
5 holder is accompanied by a licensed motorcycle operator who is at least eighteen years of age,
6 who has at least one year of driving experience and who is driving another motorcycle along with
7 the permit holder. No motorcycle instruction permit holder may carry another person on the
8 motorcycle. The permit is valid for ~~thirty days~~ one year. The permit may be issued only once in
9 a one-year period.

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

11 32-12-12. A restricted minor's permit may be issued, upon application and payment of the
12 proper fee as provided for in § 32-12-16, to a minor at least fourteen years of age but less than
13 eighteen years of age who has successfully passed all driver's license examination tests and
14 completed the requirements of an instruction permit as outlined in § 32-12-11 and has not been
15 convicted of a traffic violation during the past six months. For any such minor who has
16 successfully completed a driver education class that has been approved by the Division of
17 Education Services and Resources, the required minimum time period for holding the instruction
18 permit in order to qualify for the restricted minor's permit is ninety continuous days. A restricted
19 minor's permit entitles the holder, while having the permit in immediate physical possession, to
20 operate a motor vehicle during the hours of 6 a.m. to 8 p.m. standard time if the motor vehicle
21 is being operated with the permission of the minor's parents or guardian and during the hours of
22 8 p.m. to 6 a.m. if the motor vehicle is being operated under the direction of the minor's parent
23 or guardian who is occupying a seat beside the driver. The restrictions as to time of operation
24 and operation under the direction of a parent or guardian do not apply to the holder of a valid
25 restricted minor's permit operating a self-propelled agricultural machine which is not subject to

1 registration under chapter 32-5.

2 A restricted motorcycle minor's permit may be issued, upon application and payment of the
3 proper fee as provided for in § 32-12-16, to a minor at least fourteen years of age but less than
4 eighteen years of age who has successfully passed all driver's motorcycle license examination
5 tests and has not been convicted of a traffic violation during the past six months. For any minor
6 who has successfully completed the motorcycle safety education courses provided by § 32-20-14
7 and a driver education class that has been approved by the Division Education Services and
8 Resources, the required minimum time period for holding the motorcycle instruction permit to
9 qualify for the restricted minor's permit is thirty continuous days. A restricted motorcycle minor's
10 permit entitles the holder, while having the permit in immediate physical possession, to operate
11 a motorcycle during the hours of 6 a.m. to 8 p.m. standard time if the motorcycle is being
12 operated with the permission of the minor's parents or guardian.

13 Section 3. That § 32-12-17 be amended to read as follows:

14 32-12-17. The Department of Commerce and Regulation shall, upon payment of the fee
15 established by § 32-12-16, issue to every applicant qualifying therefor an operator's license. An
16 operator's license may be issued to a minor at least sixteen years of age but less than eighteen
17 years of age who has successfully passed all driver's license examination tests and completed the
18 requirements of an instruction permit as provided in § 32-12-11, if the applicant has not been
19 convicted of a traffic violation in the past six months, and if the applicant is not currently under
20 suspension, revocation, or disqualification. The license shall bear thereon a distinguishing number
21 assigned to the licensee, the full legal name or any name lawfully taken, date of birth, residence
22 address, an indication if the licensee is a donor pursuant to chapter 34-26, an indication if the
23 licensee as a living will pursuant to chapter 34-12D or a durable power of attorney for health
24 care pursuant to chapter 59-7, a color photo and a brief description of the licensee, and the
25 licensee's signature. The department shall indicate upon each driver's license the general class of

1 vehicles which the licensee may drive.

2 A operator's motorcycle license may be issued, upon application and payment of the proper
3 fee as provided for in § 32-12-16, to a minor at least sixteen years of age but less than eighteen
4 years of age who has successfully passed all driver's motorcycle license examination tests and has
5 not been convicted of a traffic violation during the past six months. For any minor who has
6 successfully completed the motorcycle safety education courses provided by § 32-20-14 and a
7 driver education class that has been approved by the Division Education Services and Resources,
8 the required minimum time period for holding the motorcycle instruction permit to qualify for
9 the operator's motorcycle license is thirty continuous days.

1 **BILL HISTORY**

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

3 1/17/00 Scheduled for Committee hearing on this date.

4 1/19/00 Scheduled for Committee hearing on this date.

5 1/19/00 Judiciary Do Pass, Passed, AYES 6, NAYS 0. S.J. 109

6 1/20/00 Senate Deferred to another day. S.J. 131

7 1/21/00 Senate Do Pass, Passed, AYES 34, NAYS 1. S.J. 143

8 1/24/00 First read in House and referred to committee assignment waived. H.J. 214

9 1/25/00 Referred to Judiciary.

10 2/4/00 Scheduled for Committee hearing on this date.

11 2/7/00 Scheduled for Committee hearing on this date.

12 2/7/00 Judiciary Do Pass, Failed, AYES 6, NAYS 6.

13 2/7/00 Deferred to 36th legislative day, AYES 8, NAYS 4. H.J. 447

14 2/16/00 Judiciary Hog Housed.

15 2/16/00 Judiciary Reconsidered, AYES 11, NAYS 0.

16 2/16/00 Judiciary Do Pass Amended, Passed, AYES 13, NAYS 0. H.J. 704

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

780D0403

SENATE JUDICIARY COMMITTEE

ENGROSSED NO. **SB70** - 2/8/00

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

Introduced by: Senator Olson and Representatives Fischer-Clemens and Sebert

1 FOR AN ACT ENTITLED, An Act to provide for the assessment of a higher fee for a vehicle
2 dealer license permit purchased beyond the five-day requirement.

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

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

5 32-6B-5. The following persons are exempt from the provisions of this chapter:

- 6 (1) Any employee of any person licensed as a vehicle dealer if engaged in the specific
7 performance of the employee's duties;
- 8 (2) Any financial institution chartered or licensed in any other jurisdiction that acquires
9 vehicles as an incident to its regular business and sells such vehicles to dealers licensed
10 under this chapter;
- 11 (3) Any nonprofit automobile club if selling automobiles twenty years old or older under
12 the provisions of chapter 32-3;
- 13 (4) Any person acting as an auctioneer if auctioning South Dakota titled vehicles for a
14 licensed dealer or a person who is exempt from the provisions of this chapter;
- 15 (5) Any person engaged in the business of manufacturing or converting new vehicles if
16 selling such vehicles to a licensed dealer holding a franchise from the original

1 manufacturer of the vehicle;

2 (6) Any person engaged in the business of manufacturing or customizing motorcycles
3 may display but may not sell any motorcycles at an event, if the event lasts three or
4 more days and if the person registers with and purchases a permit from the
5 Department of Revenue at least five days before the event. The person shall pay a fee
6 of one hundred fifty dollars for a ten-day temporary permit. However, if the permit
7 is purchased at least five days before the event, the person shall pay a fee of one
8 hundred dollars for the ten-day temporary permit;

9 (7) Any person engaged in the business of manufacturing trailers may display but may not
10 sell any trailers at an event, if the event lasts three or more days and if the person
11 registers with and purchases a permit from the Department of Revenue at least five
12 days before the event. The person shall pay a fee of ~~fifty~~ seventy-five dollars for a
13 ten-day temporary permit. However, if the permit is purchased at least five days
14 before the event, the person shall pay a fee of fifty dollars for the ten-day temporary
15 permit;

16 (8) Any person may sell motorcycles at an event, if the event lasts three or more days and
17 if the person registers and purchases a permit from the Department of Revenue at
18 least five days before the event. Before issuance of a permit, the applicant must
19 provide proof they are a licensed dealer in their own state and have no outstanding
20 dealer violations. The permit will only be issued if the motorcycles being sold are not
21 franchised in this state. The person shall pay a fee of ~~two~~ three hundred dollars for a
22 ten-day temporary permit. However, if the permit is purchased at least five days
23 before the event, the person shall pay a fee of two hundred dollars for the ten-day
24 temporary permit;

25 (9) Any person may sell trailers at an event, if the event lasts three or more days and if the

1 person registers and purchases a permit from the Department of Revenue at least five
2 days before the event. Before issuance of a permit, the applicant must provide proof
3 they are a licensed dealer in their own state and have no outstanding dealer violations.
4 The permit will only be issued if the trailers being sold are not franchised in this state.
5 The person shall pay a fee of ~~one~~ two hundred and ~~fifty~~ twenty-five dollars for a
6 ten-day temporary permit. However, regardless of whether or not there is a franchise
7 in this state, any person may display a trailer at such an event. However, if the permit
8 is purchased at least five days before the event, the person shall pay a fee of one
9 hundred fifty dollars for the ten-day temporary permit;

10 (10) Any person not engaged in the sale of vehicles as a business and is disposing of
11 vehicles used solely for personal use if the vehicles were acquired and used in good
12 faith and not for the purpose of avoiding the provisions of this chapter;

13 (11) Any person not engaged in the sale of vehicles as a business who operates fleets of
14 vehicles and is disposing of vehicles used in the person's business if the same were
15 acquired and used in good faith and not for the purpose of avoiding the provisions of
16 this chapter;

17 (12) Any person who sells less than five vehicles in a twelve-month period, unless the
18 person is licensed as a dealer in another state or holds himself or herself out as being
19 in the business of selling vehicles. However, if the vehicles are travel trailers, any
20 person who sells less than three travel trailers in a twelve-month period;

21 (13) Any public officer while performing the officer's official duties;

22 (14) Any receiver, trustee, administrator, executor, guardian, or other person appointed
23 by or acting under the judgment or order of any court;

24 (15) Any regulated lenders as that term is defined in § 54-3-14, any insurance company
25 authorized to do business in this state or any financing institution as defined in and

1 licensed pursuant to chapter 54-7 that acquires vehicles as an incident to its regular
2 business;

3 (16) Any towing agency that acquires and sells a vehicle which has been towed at the
4 request of a private landowner under the provision of chapter 32-36 or at the request
5 of a law enforcement officer, if no vehicle is sold for an amount over two hundred
6 dollars; and

7 (17) Any vehicle rental and leasing company that sells its used vehicles to dealers licensed
8 under this chapter.

1 **BILL HISTORY**

2 1/15/00 First read in Senate and referred to Judiciary. S.J. 59

3 1/17/00 Scheduled for Committee hearing on this date.

4 1/19/00 Scheduled for Committee hearing on this date.

5 1/24/00 Scheduled for Committee hearing on this date.

6 1/24/00 Deferred to 36th legislative day, AYES 7, NAYS 0. S.J. 175

7 2/4/00 Judiciary Removed from Table.

8 2/7/00 Judiciary Hog Housed.

9 2/7/00 Scheduled for Committee hearing on this date.

10 2/7/00 Judiciary Do Pass Amended, Passed, AYES 7, NAYS 0. S.J. 339

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

265D0181

HOUSE COMMERCE COMMITTEE ENGROSSED NO. **SB73** - 2/18/00

Introduced by: Senators Brosz, Daugaard, Lawler, and Shoener and Representatives Peterson, Konold, and Solum

1 FOR AN ACT ENTITLED, An Act to require insurers to disclose certain provisions with regard
2 to usual, customary, and reasonable charges.

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

4 Section 1. That chapter 58-33A be amended by adding thereto a NEW SECTION to read
5 as follows:

6 Any insurer that is subject to § 58-33A-1 offering to provide health benefits in this state
7 through a policy, contract, or certificate that contains a provision limiting coverage to usual,
8 customary, or reasonable charges shall provide prominent disclosure that the policy, certificate,
9 or contract contains a usual, customary, and reasonable limitation and that this limitation may
10 cause the insured to incur additional out-of-pocket expenses. An insurer may comply with this
11 section by including the required disclosure in an outline of coverage.

12 Section 2. That § 58-33A-1 be amended to read as follows:

13 58-33A-1. ~~Sections 58-33A-1 to 58-33A-12, inclusive, apply~~ This chapter applies to all
14 individual and group health policies which are solicited or sold in this state that are subject to
15 chapters 58-15, 58-16, 58-17, 58-18, 58-18B, 58-37A, 58-38, 58-39, 58-40, and 58-41.
16 However, ~~§§ 58-33A-1 to 58-33A-12, inclusive, do~~ this chapter does not apply to insurance

1 policies and subscriber contracts subject to the medicare supplement requirements. Except for
2 the exemptions specified in this section, ~~§§ 58-33A-1 to 58-33A-12, inclusive, apply~~ this chapter
3 applies to any solicitation, negotiation, or effectuation of life insurance occurring within this
4 state. ~~Sections 58-33A-1 to 58-33A-12, inclusive, apply~~ This chapter applies to any issuer of life
5 insurance contracts including fraternal benefit societies. ~~Sections 58-33A-1 to 58-33A-12,~~
6 ~~inclusive, do~~ This chapter does not apply to:

- 7 (1) Group annuities;
- 8 (2) Credit life insurance;
- 9 (3) Group life insurance (except for disclosures relating to preneed funeral contracts or
10 prearrangements as provided by ~~§§ 58-33A-1 to 58-33A-12, inclusive~~ this chapter.
11 These disclosure requirements extend to the issuance or delivery of certificates as well
12 as to the master policy);
- 13 (4) Life insurance policies issued in connection with pension and welfare plans as defined
14 by and which are subject to the federal Employee Retirement Income Security Act of
15 1974 (ERISA), 29 U.S.C. Section 1001 et seq. as amended to January 1, 1999;
- 16 (5) Variable life insurance under which the amount or duration of the life insurance varies
17 according to the investment experience of a separate account; or
- 18 (6) Variable annuities under which the amount varies according to the investment
19 experience.

20 Section 3. That § 58-33A-2 be amended to read as follows:

21 58-33A-2. The purpose of ~~§§ 58-33A-1 to 58-33A-12, inclusive,~~ this chapter is to establish
22 guidelines and permissible and impermissible standards of conduct in the solicitation of and
23 advertising of life and health insurance in a manner which:

- 24 (1) Prevents unfair, deceptive, and misleading advertising;
- 25 (2) Is conducive to accurate presentation and description to the insurance-buying public

- 1 through the advertising media and material used by insurance agents and companies;
- 2 (3) Provides for the full disclosure of the benefits, limitations, and exclusions of policies
- 3 sold;
- 4 (4) Sets forth minimum standards and guidelines to assure a full and truthful disclosure
- 5 to the public of all material and relevant information in the advertising of life insurance
- 6 policies and annuity contracts;
- 7 (5) Requires insurers to deliver to purchasers of life insurance information which will
- 8 improve the buyer's ability to select the most appropriate plan of life insurance for the
- 9 buyer's needs;
- 10 (6) Improves the buyer's understanding of the basic features of the policy which has been
- 11 purchased or which is under consideration;
- 12 (7) Improves the ability of the buyer to evaluate the relative costs of similar plans of life
- 13 insurance;
- 14 (8) Provides reasonable standardization and simplification of terms and coverages of
- 15 health insurance policies and subscriber contracts of nonprofit hospital, medical, and
- 16 dental service associations to facilitate public understanding and comparison;
- 17 (9) Eliminates provisions contained in health insurance policies and subscriber contracts
- 18 of nonprofit hospital, medical, and dental service associations which may be
- 19 misleading or unreasonably confusing in connection either with the purchase of such
- 20 coverages or with the settlement of claims; and
- 21 (10) Provides for full disclosure in the sale of life or health coverages.

22 Section 4. That § 58-33A-3 be amended to read as follows:

23 58-33A-3. For the purposes of ~~§§ 58-33A-1 to 58-33A-12, inclusive~~ this chapter, the term,

24 advertisement, includes:

- 25 (1) Any printed and published material, audio visual material, and descriptive literature

- 1 of an insurer used in direct mail, newspapers, magazines, radio scripts, TV scripts,
2 billboards, and similar displays;
- 3 (2) Any descriptive literature and sales aids of all kinds issued by an insurer, agent,
4 producer, broker or solicitor for presentation to members of the insurance-buying
5 public, including circulars, leaflets, booklets, depictions, illustrations, Internet
6 communications, form letters, and lead-generating devices of all kinds;
- 7 (3) Any prepared sales talks, presentations, and material for use by agents, brokers,
8 producers, and solicitors whether prepared by the insurer or the agent, broker,
9 producer, or solicitor; and
- 10 (4) Any advertising material included with a policy if the policy is delivered and material
11 is used in the solicitation of renewals and reinstatements.

12 Section 5. That § 58-33A-4 be amended to read as follows:

13 58-33A-4. For the purposes of ~~§§ 58-33A-1 to 58-33A-12, inclusive~~ this chapter, the term,
14 advertisement, does not include:

- 15 (1) Any material to be used solely for the training and education of an insurer's
16 employees, agents, or brokers;
- 17 (2) Any material used in-house by insurers;
- 18 (3) Any communications within an insurer's own organization not intended for
19 dissemination to the public;
- 20 (4) Any individual communications of a personal nature with current policyholders other
21 than material urging such policyholders to increase or expand coverages;
- 22 (5) Any correspondence between a prospective group or blanket policyholder and an
23 insurer in the course of negotiating a group or blanket contract;
- 24 (6) Any court-approved material ordered by a court to be disseminated to policyholders;
25 or

1 (7) Any general announcement from a group or blanket policyholder to eligible
2 individuals on an employment or membership list that a contract or program has been
3 written or arranged if the announcement clearly indicates that it is preliminary to the
4 issuance of a booklet and the announcement does not describe the benefits under the
5 contract or program or describe advantages as to the purchase of the contract or
6 program.

7 Section 6. That § 58-33A-7 be amended to read as follows:

8 58-33A-7. The director may promulgate rules pursuant to chapter 1-26 to establish specific
9 standards consistent with § 58-33A-2. The rules may include standards of full and fair disclosure,
10 that set forth the manner, content and required disclosure. Except for conversion policies issued
11 pursuant to a contractual conversion privilege under a group, the rules may apply to the sale of
12 individual and group health insurance subject to ~~§§ 58-33A-1 to 58-33A-12, inclusive, this~~
13 chapter and shall be in addition to and in accordance with applicable laws of this state. The rules
14 may include:

- 15 (1) Terms of renewability;
- 16 (2) Initial and subsequent conditions of eligibility;
- 17 (3) Nonduplication of coverage provisions;
- 18 (4) Coverage of dependents;
- 19 (5) Preexisting conditions;
- 20 (6) Termination of insurance;
- 21 (7) Probationary periods;
- 22 (8) Limitations, exceptions, and reductions;
- 23 (9) Elimination periods;
- 24 (10) Requirements for replacement;
- 25 (11) Recurrent conditions;

- 1 (12) Prohibitions on the use of terms, information, phrases, or implied affiliations in
- 2 advertising;
- 3 (13) Prominence, form, and style of any advertisement;
- 4 (14) Information to be disclosed on advertising or solicitation materials;
- 5 (15) Use of testimonials;
- 6 (16) Special offers or enrollment periods;
- 7 (17) Coverage comparisons;
- 8 (18) Identification of insurers and agents;
- 9 (19) Prearrangements or preneed funeral contracts; and
- 10 (20) The definition of terms including the following: hospital, accident, sickness, injury,
- 11 physician, accidental means, total disability, partial disability, nervous disorder,
- 12 guaranteed renewable and noncancellable.

13 Section 7. That § 58-33A-8 be amended to read as follows:

14 58-33A-8. Any information required to be disclosed by rules promulgated pursuant to
15 ~~§§ 58-33A-1 to 58-33A-12, inclusive~~, this chapter shall be set out conspicuously and in close
16 conjunction with the statements to which the information relates or under appropriate captions
17 of such prominence that it does not minimize, render obscure, present in an ambiguous fashion,
18 or intermingle with the context of the advertisement so as to be confusing or misleading.

19 Section 8. That § 58-33A-12 be amended to read as follows:

20 58-33A-12. If the director has reason to believe that an advertisement has the capacity and
21 tendency to mislead or deceive the public or otherwise does not comply with ~~§§ 58-33A-1 to~~
22 ~~58-33A-12, inclusive~~, this chapter or the rules promulgated pursuant to ~~§§ 58-33A-1 to~~
23 ~~58-33A-12, inclusive~~ this chapter, the director may require an insurer or insurance producer to
24 submit all or any part of the advertising material for review or approval prior to use, in addition
25 to any other remedies allowed by law.

1 **BILL HISTORY**

2 1/15/00 First read in Senate and referred to Commerce. S.J. 60

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

4 1/20/00 Deferred by Chair.

5 1/27/00 Scheduled for Committee hearing on this date.

6 2/1/00 Scheduled for Committee hearing on this date.

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

8 2/2/00 Senate Do Pass, Passed, AYES 20, NAYS 15. S.J. 294

9 2/3/00 First read in House and referred to Commerce. H.J. 406

10 2/17/00 Scheduled for Committee hearing on this date.

11 2/17/00 Commerce Do Pass Amended, Passed, AYES 9, NAYS 0. H.J. 718

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

734D0473

SENATE COMMERCE COMMITTEE ENGROSSED NO. **SB77** - 1/28/00

Introduced by: Senators Rounds and Symens and Representatives Jaspers and Wilson

1 FOR AN ACT ENTITLED, An Act to regulate a manufacturer's right of first refusal.

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

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

5 Notwithstanding the terms of any franchise agreements, the manufacturer or franchisor may
6 exercise a right of first refusal to acquire the motor vehicle dealer's assets or ownership if all of
7 the following conditions are met:

8 (1) In order to exercise the right of first refusal, the manufacturer or franchisor shall
9 notify the motor vehicle dealer in writing within sixty days of its receipt of the
10 completed proposal for the sale or transfer and all related agreements;

11 (2) The exercise of the right of first refusal will result in the dealer receiving the same or
12 greater consideration as the dealer has contracted to receive in connection with the
13 proposed change of ownership or transfer;

14 (3) The proposed sale or transfer of the dealership's assets does not involve the transfer
15 or sale to a member or members of the family of one or more dealers, or to a qualified
16 manager with at least two years management experience at the dealership of one or

- 1 more of these dealers, or to a partnership or corporation controlled by such persons;
- 2 (4) The manufacturer or franchisor agrees to pay the reasonable expenses, including
- 3 attorney fees which do not exceed the usual, customary, and reasonable fees charged
- 4 for similar work done for other clients, incurred by the proposed owner or transferee
- 5 prior to the manufacturer's or franchisor's exercise of its right of first refusal in
- 6 negotiating and implementing the contract for the proposed sale or transfer of the
- 7 dealership or dealership assets. Such expenses and attorney fees shall be paid to the
- 8 proposed new owner or transferee at the time of closing of the sale or transfer for
- 9 which the manufacturer or franchisor exercised its right of first refusal. No payment
- 10 of such expenses and attorney fees is required if the new owner or transferee has not
- 11 submitted an accounting of those expenses within thirty days of the dealer's receipt
- 12 of the manufacturer's or franchisor's written request for such an accounting. A
- 13 manufacturer or franchisor may request such accounting before exercising a right of
- 14 first refusal; and
- 15 (5) The dealer does not have any liability to any person as a result of a manufacturer or
- 16 franchisor exercising a right of first refusal.

1 **BILL HISTORY**

2 1/18/00 First read in Senate and referred to Commerce. S.J. 70

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

4 1/27/00 Commerce Do Pass Amended, Passed, AYES 7, NAYS 0. S.J. 217

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

291D0592

SENATE TRANSPORTATION COMMITTEE

ENGROSSED NO. **SB109** - 1/26/00

Introduced by: Senators Benson, Albers, Bogue, Brown (Arnold), Dunn (Jim), Frederick, Hainje, Staggers, and Vitter and Representatives Duenwald, Diedrich (Larry), Fitzgerald, Jaspers, Juhnke, McCoy, Peterson, Putnam, Wetz, and Wudel

1 FOR AN ACT ENTITLED, An Act to revise the time requirement for the purchase of
2 temporary permits associated with certain specialty license plates and to declare an
3 emergency.

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

5 Section 1. That § 32-5-140 be amended to read as follows:

6 32-5-140. Upon the sale or transfer of a vehicle bearing specialty license plates that display
7 an organization decal, the plates shall remain with the owner and upon approval by the
8 department may be transferred to another vehicle. Anyone receiving organization license plates
9 ~~shall~~ may at the time of obtaining the specialty plates purchase from the county treasurer a
10 temporary permit. The owner of the specialty plate shall purchase a permit before the sale of the
11 vehicle to an individual. The permit is valid for fifteen days and costs fifteen dollars. The permit
12 shall be vehicle specific and shall be affixed to the vehicle by the seller at the time of sale or
13 transfer of the vehicle. The new owner of the vehicle may use the permit in the interim of
14 registering the vehicle. The permit may not be used for any other purpose than stated. Misuse
15 ~~of the temporary permit or failure to purchase the temporary permit before the sale of the vehicle~~

1 is a Class 2 misdemeanor.

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

4 If, before the effective date of this Act, an applicant requests a refund of the fifteen dollar
5 temporary permit fee, the department shall authorize the refund upon receipt of the request, the
6 temporary permit, and a copy of the registration.

7 Section 3. Whereas, this Act is necessary for the support of the state government and its
8 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full
9 force and effect on April 1, 2000.

1 **BILL HISTORY**

2 1/19/00 First read in Senate and referred to Transportation. S.J. 112

3 1/21/00 Scheduled for Committee hearing on this date.

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

5 1/25/00 Transportation Do Pass Amended, Passed, AYES 7, NAYS 0. S.J. 184

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

714D0462

HOUSE AGRICULTURE AND NATURAL RESOURCES COMMITTEE ENGROSSED NO. **SB138** - 2/16/00

Introduced by: Senators Bogue, Dennert, and Drake and Representatives Wetz, Duenwald, and McNenny

1 FOR AN ACT ENTITLED, An Act to prohibit the use of motor vehicles for hunting, fishing,
2 or trapping purposes on certain school and public lands.

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

4 Section 1. That chapter 41-9 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 No person may use a motor vehicle, as defined in subdivision 41-1-1(18), for purposes of
7 hunting, fishing, or trapping on any land under the control of the commissioner of school and
8 public lands on which public hunting, fishing, or trapping is authorized. No person may use a
9 motor vehicle, for purposes of hunting, fishing, or trapping to enter onto or to cross any land
10 under the control of the commissioner of school and public lands on which public hunting,
11 fishing, or trapping is authorized. Any motor vehicle that is used to transport any person to any
12 such lands for purposes of hunting, fishing, or trapping shall remain within a public right of way.
13 Nothing in this Act authorizes or prohibits hunting, fishing, or trapping in any area where those
14 activities are otherwise authorized or prohibited. The prohibitions contained in this section do
15 not restrict the use of motor vehicles on roads, trails, or parking areas designated and signed by
16 the Department of Game, Fish and Parks pursuant to a management agreement with the

1 commissioner of school and public lands. Nothing in this section prohibits using a motor vehicle
2 on land under the control of the commissioner of school and public lands for normal lease
3 activities by the lessee or for animal damage control activities. A violation of this section is a
4 Class 2 misdemeanor.

1 **BILL HISTORY**

2 1/19/00 First read in Senate and referred to Judiciary. S.J. 118

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

4 1/24/00 Deferred by Chair.

5 1/26/00 Scheduled for Committee hearing on this date.

6 1/26/00 Judiciary Do Pass Amended, Passed, AYES 6, NAYS 1. S.J. 200

7 1/28/00 Motion to Amend, Passed.

8 1/28/00 Senate Do Pass Amended, Passed, AYES 35, NAYS 0. S.J. 243

9 1/31/00 First read in House and referred to committee assignment waived. H.J. 319

10 2/1/00 Referred to Agriculture and Natural Resources.

11 2/15/00 Scheduled for Committee hearing on this date.

12 2/15/00 Agriculture and Natural Resources Do Pass Amended, Passed, AYES 0, NAYS 0.

13 H.J. 664

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

655D0715

SENATE ENGROSSED NO. **SB161** - 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 Bogue and Everist and Representatives Hunt and Fischer-Clemens

1 FOR AN ACT ENTITLED, An Act to restrict the legal responsibility to provide financial
2 support for certain family members.

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

4 Section 1. That § 25-7-27 be amended to read as follows:

5 25-7-27. ~~Every~~ Any adult child, having the financial ability ~~to do so~~, shall provide
6 necessary food, clothing, shelter, or medical attendance for a parent who is unable to provide for
7 ~~himself; provided that oneself. However,~~ no claim ~~shall~~ may be made against such adult child
8 ~~until notice has been given such adult child~~ the adult child is given written notice that his the
9 child's parent is unable to provide for himself oneself, and such adult child shall have has refused
10 to provide for his the child's parent. Notice required by this section shall be given within ninety
11 days after the necessary food, clothing, shelter, or medical attendance, claimed in the notice, was
12 first provided for the parent. However, in the case of fraud or misrepresentation, notice shall be
13 provided within ninety days after such fraud or misrepresentation is known or should have been
14 known. If the parent or someone acting on behalf of the parent makes application for assistance
15 pursuant to chapter 28-13, the county shall give the written notice required herein within ninety
16 days after it receives the application or notice required under § 28-13-1, 28-13-32.3, 28-13-32.4,

1 or 28-13-34.1, whichever is sooner.

1 **BILL HISTORY**

2 1/21/00 First read in Senate and referred to Judiciary. S.J. 139

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

4 1/24/00 Deferred by Chair.

5 1/26/00 Scheduled for Committee hearing on this date.

6 1/26/00 Judiciary Deferred to another day.

7 1/28/00 Scheduled for Committee hearing on this date.

8 1/31/00 Scheduled for Committee hearing on this date.

9 1/31/00 Deferred to 36th legislative day, AYES 5, NAYS 1. S.J. 262

10 2/7/00 Judiciary Hog Housed.

11 2/7/00 Scheduled for Committee hearing on this date.

12 2/7/00 Judiciary Reconsidered.

13 2/7/00 Judiciary Do Pass Amended, Failed, AYES 3, NAYS 3.

14 2/7/00 Judiciary Do Pass Amended, Passed, AYES 4, NAYS 3. S.J. 338

15 2/9/00 Motion to Amend, Passed. S.J. 393

16 2/9/00 Senate Do Pass Amended, Passed, AYES 32, NAYS 1. S.J. 393

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

708D0700

SENATE COMMERCE COMMITTEE

ENGROSSED NO. **SB165** - 1/28/00

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

Introduced by: Senators Reedy, Albers, Flowers, and Lawler and Representatives Brown (Richard), Clark, and Engbrecht

1 FOR AN ACT ENTITLED, An Act to allow a farm winery to hold an on-sale retail license.

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

3 Section 1. That chapter 35-12 be amended by adding thereto a NEW SECTION to read as
4 follows:

5 The holder of a farm winery license may also hold on the premises where the wine is
6 produced, an on-sale license issued pursuant to subdivision 35-4-2(4) or (6) and subject to the
7 quota established in § 35-4-11 or 35-4-11.1.

1 **BILL HISTORY**

2 1/21/00 First read in Senate and referred to Commerce. S.J. 139

3 1/27/00 Commerce Hog Housed.

4 1/27/00 Scheduled for Committee hearing on this date.

5 1/27/00 Commerce Do Pass Amended, Passed, AYES 7, NAYS 0. S.J. 216

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

627D0726

SENATE ENGROSSED NO. **SB169** - 2/10/00

Introduced by: Senators Munson (David) and Albers and Representatives Earley, Davis,
Koetzle, and Peterson

1 FOR AN ACT ENTITLED, An Act to revise the provisions limiting the number of retail alcohol
2 licenses that may be issued to one person.

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

4 Section 1. That § 35-4-4 be amended to read as follows:

5 35-4-4. No person, corporation, or business entity may be the holder of or have an interest
6 in more than three retail licenses issued under subdivisions 35-4-2(3), (4), (6), or (13). However,
7 a person, corporation, or business entity may hold or have an interest in three additional retail
8 licenses issued under subdivision 35-4-2(4) if the licensee derives more than fifty percent of the
9 licensee's gross receipts from the sale of food at the location where the license is held ~~and if the~~
10 ~~location is in a municipality of the first class.~~ For purposes of this section, location means one
11 contiguous piece of real estate on which sales are generated by the licensee.

1 **BILL HISTORY**

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

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

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

5 2/8/00 Scheduled for Committee hearing on this date.

6 2/8/00 Commerce Do Pass, Passed, AYES 6, NAYS 0. S.J. 356

7 2/9/00 Senate Do Pass, Passed, AYES 24, NAYS 11. S.J. 394

8 2/9/00 Senate Title Amended Passed. S.J. 395

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

772D0766

HOUSE AGRICULTURE AND NATURAL RESOURCES

COMMITTEE ENGROSSED NO. **SB182** - 2/18/00

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

Introduced by: Senator Symens and Representatives Jaspers and Hanson

1 FOR AN ACT ENTITLED, An Act to establish certain restricted zones on inundated lands and
2 penalties for violating such zones.

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

4 Section 1. That chapter 41-9 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any person, who is actively engaged in agriculture, has established on their privately-owned
7 fee title property, classified as agricultural land pursuant to § 10-6-31.3, and which is inundated
8 by water or frozen water, a restricted zone in and on the water or frozen water inundating the
9 person's private property not to exceed six hundred sixty feet from that person's occupied
10 dwelling located thereon. No person may enter the water or frozen water within the restricted
11 zone for the purposes of hunting, fishing, or trapping without permission of the owner or lessee
12 of the property. A violation of this section is a Class 2 misdemeanor. If the owner or lessee of
13 the inundated property gives notice of the restricted zone by marking the location of the zone
14 by placement of conspicuous and stationary posts, signs, markers, or buoys in the water or
15 frozen water inundating the owner's or lessee's property and a person is convicted of knowingly
16 entering or using the restricted zone for the purposes of hunting, fishing, or trapping, the

1 person's applicable hunting, fishing, or trapping privileges in South Dakota are automatically
2 revoked without further hearing for a period of one year following date of conviction as provided
3 for in § 41-6-74.3. Nothing in this section affects the public use of all rivers and streams.

1 **BILL HISTORY**

2 1/24/00 First read in Senate and referred to Agriculture and Natural Resources. S.J. 166

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

4 2/3/00 Deferred by Chair.

5 2/8/00 Scheduled for Committee hearing on this date.

6 2/8/00 Agriculture and Natural Resources Do Pass, Passed, AYES 6, NAYS 3. S.J. 350

7 2/9/00 Senate Deferred to another day. S.J. 395

8 2/10/00 Senate Do Pass, Failed, AYES 10, NAYS 25. S.J. 416

9 2/10/00 Senate Reconsidered, AYES 19, NAYS 16. S.J. 416

10 2/10/00 Motion to Amend, Passed. S.J. 417

11 2/10/00 Senate Do Pass Amended, Passed, AYES 23, NAYS 12. S.J. 417

12 2/10/00 Senate Title Amended Passed. S.J. 417

13 2/10/00 Senate Hog Housed.

14 2/11/00 First read in House and referred to Agriculture and Natural Resources. H.J. 609

15 2/17/00 Scheduled for Committee hearing on this date.

16 2/17/00 Agriculture and Natural Resources Do Pass Amended, Passed, AYES 10, NAYS 2.

17 H.J. 717

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

547D0763

HOUSE JUDICIARY COMMITTEE ENGROSSED NO. **SB195** - 2/17/00

Introduced by: Senators Lawler, Kloucek, Lange, and Staggers and Representatives Duenwald, Apa, Brown (Jarvis), Chicoine, Diedrich (Elmer), Heineman, Juhnke, Monroe, Sebert, and Waltman

1 FOR AN ACT ENTITLED, An Act to prohibit or restrict certain acts in relation to human
2 embryos.

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

4 Section 1. No person may knowingly conduct nontherapeutic research that destroys a human
5 embryo. A violation of this section is a Class 1 misdemeanor.

6 Section 2. No person may knowingly conduct nontherapeutic research that subjects a human
7 embryo to substantial risk of injury or death. No person may sell or transfer a human embryo
8 with the knowledge that the embryo will be subjected to nontherapeutic research. A violation of
9 this section is a Class 1 misdemeanor.

10 Section 3. No person may use for research purposes cells or tissues that the person knows
11 were obtained by performing the activities described in sections 1 and 2 of this Act. A violation
12 of this section is a Class 1 misdemeanor.

13 Section 4. For purposes of this Act, the term, nontherapeutic research, means research that
14 is not intended to help preserve the life and health of the particular embryo subjected to risk. It
15 does not include in vitro fertilization and accompanying embryo transfer to a woman's body or

1 any diagnostic test which may assist in the future care of a child subjected to such tests.

2 Section 5. For purposes of this Act, the term, human embryo, means a living organism of the

3 species *Homo sapiens* at the earliest stages of development (including the single-celled stage)

4 that is not located in a woman's body.

1 **BILL HISTORY**

2 1/24/00 First read in Senate and referred to Judiciary. S.J. 169

3 2/4/00 Scheduled for Committee hearing on this date.

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

5 2/9/00 Motion to Amend, Passed. S.J. 396

6 2/9/00 Senate Do Pass Amended, Passed, AYES 35, NAYS 0. S.J. 396

7 2/10/00 First read in House and referred to Judiciary. H.J. 564

8 2/16/00 Scheduled for Committee hearing on this date.

9 2/16/00 Judiciary Do Pass Amended, Passed, AYES 10, NAYS 3. H.J. 704

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

400D0787

SENATE STATE AFFAIRS COMMITTEE ENGROSSED NO. **SB197** - 2/3/00

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

1 FOR AN ACT ENTITLED, An Act to create a statewide underground tank cleanup program.

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

3 Section 1. That chapter 34A-13 be amended by adding thereto a NEW SECTION to read
4 as follows:

5 There is hereby created within the petroleum release compensation fund, a new program to
6 be known as the abandoned tank removal program. Under this program, the director may
7 provide payments for tank pulling and corrective action at abandoned sites where the owner or
8 the person having legal custody of an abandoned site has voluntarily requested such action in the
9 manner and time established by the secretaries of the departments of transportation and
10 environment and natural resources and if the following criteria are met:

11 (1) The owner or person having legal custody of the abandoned site has submitted to the
12 director a written request to have the tank removed. The request shall be made in the
13 manner established by the secretary of the Department of Transportation to include
14 documentation of eligibility for the site to participate in the abandoned tank removal
15 program, proof of ownership, and legal description;

16 (2) The owner or person having legal custody of the abandoned site has, in writing,

1 waived all claims against the state, its officers, agents, and employees for damages
2 resulting directly or indirectly from the tank pulling or corrective action;

3 (3) If the abandoned site is on private property, all property taxes are current; and

4 (4) The owner or person having legal custody of the abandoned site has agreed to transfer
5 ownership of the removed tank and its contents to the state.

6 No tank is eligible for coverage under this program if the tank is located at the site of a
7 commercially operational motor fuel vendor in service on or after April 1, 1988.

8 Section 2. That chapter 34A-13 be amended by adding thereto a NEW SECTION to read
9 as follows:

10 Payments made from the director for tank pulling and corrective action under the abandoned
11 tank removal program may include:

12 (1) Tank pulling, as defined in this chapter, including the disposal of tank contents and
13 specifically excluding the replacement of surface above the backfill area; and

14 (2) Removal of abandoned waste oil tanks and corrective action of a waste oil release
15 located on an abandoned site.

16 Section 3. That chapter 34A-13 be amended by adding thereto a NEW SECTION to read
17 as follows:

18 The owner or person having legal custody of the abandoned site shall, as a condition of
19 approval for participation in the abandoned tank removal program, execute a legally binding five-
20 year lien running with the affected property providing that any compensation received by the
21 owner, the owner's heirs, successors in interest, or assigns, for transfer of any interest in or part
22 of the site, shall be paid to the secretary of the Department of Transportation and deposited in
23 the fund. No lien may be for an amount more than ten thousand dollars or the cost of tank pulling
24 and corrective action identified in the lien by the director, whichever is less. Any lien provided
25 by this section is valid for five years from the date of recordation and the priority of the lien is

1 established as of the date it is recorded in the office of the register of deeds of the county in
2 which the site is located.

3 Section 4. That chapter 34A-13 be amended by adding thereto a NEW SECTION to read
4 as follows:

5 The Department of Environment and Natural Resources shall be responsible for the tank
6 removal and corrective actions subject to this Act. The department may contract directly with
7 consultants, contractors, other service providers, state agencies, subdivisions of government,
8 counties, cities, townships, and tribes to carry out the provisions of this Act. After receiving
9 itemized documentation of all actual costs from the department, the director of the petroleum
10 release compensation fund shall make payment within thirty days of receipt. All tank removals,
11 pollution assessments, and corrective actions taken under this Act shall comply with chapters
12 34A-2 and 34A-12 and the rules promulgated thereunder.

13 Section 5. That chapter 34A-13 be amended by adding thereto a NEW SECTION to read
14 as follows:

15 The secretaries of the departments of transportation and environment and natural resources
16 may promulgate, pursuant to chapter 1-26, rules regarding practices and procedures necessary
17 to carry out the provisions of the abandoned tank removal program including the form and
18 procedure for application for qualifying for tank pulling and corrective action.

19 Section 6. That chapter 34A-13 be amended by adding thereto a NEW SECTION to read
20 as follows:

21 Except at sites determined to be high risk by the secretary of the Department of Environment
22 and Natural Resources using risk-based corrective action criteria, the director shall suspend
23 payments for tank pulling and corrective action at abandoned sites eligible for the abandoned
24 tank removal program if the balance of the fund is five million dollars or below. The director
25 shall resume payments for tank pulling and corrective action at abandoned sites eligible for the

1 abandoned tank removal program if the fund balance exceeds five million dollars. Except as
2 provided in this Act, all other limits of coverage, conditions, and criteria in this chapter apply to
3 tank pulling and corrective action taken at abandoned sites.

1 **BILL HISTORY**

2 1/24/00 First read in Senate and referred to State Affairs. S.J. 169

3 1/31/00 Scheduled for Committee hearing on this date.

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

5 2/2/00 State Affairs Do Pass Amended, Passed, AYES 9, NAYS 0. S.J. 279