



# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

400D0329

## HOUSE EDUCATION COMMITTEE ENGROSSED NO. **HB1031** - 1/24/0

Introduced by: The Committee on Education at the request of the Department of Commerce  
and Regulation

1 FOR AN ACT ENTITLED, An Act to allow certain driver education courses from other states  
2 to be used to meet the requirements for a restricted minor's permit.

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

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

5 32-12-12. A restricted minor's permit may be issued, upon application and payment of the  
6 proper fee as provided for in § 32-12-16, to a minor at least fourteen years of age but less than  
7 eighteen years of age who has successfully passed all driver's license examination tests and  
8 completed the requirements of an instruction permit as outlined in § 32-12-11 and has not been  
9 convicted of a traffic violation during the past six months. For any such minor who has  
10 successfully completed a driver education ~~class~~ course that has been approved by the ~~Division~~  
11 ~~of Education Services and Resources~~ Department of Education and Cultural Affairs or that the  
12 secretary of commerce and regulation has determined the said course has been approved by a  
13 state government agency in another state, the required minimum time period for holding the  
14 instruction permit in order to qualify for the restricted minor's permit is ninety continuous days.  
15 A restricted minor's permit entitles the holder, while having the permit in immediate physical  
16 possession, to operate a motor vehicle during the hours of 6 a.m. to 8 p.m. standard time if the

1 motor vehicle is being operated with the permission of the minor's parents or guardian and during  
2 the hours of 8 p.m. to 6 a.m. if the motor vehicle is being operated under the direction of the  
3 minor's parent or guardian who is occupying a seat beside the driver. The restrictions as to time  
4 of operation and operation under the direction of a parent or guardian do not apply to the holder  
5 of a valid restricted minor's permit operating a self-propelled agricultural machine which is not  
6 subject to registration under chapter 32-5.

1 **BILL HISTORY**

2 1/11/00 First read in House and referred to committee assignment waived. H.J. 18

3 1/12/00 Referred to Education. H.J. 33

4 1/18/00 Scheduled for Committee hearing on this date.

5 1/18/00 Education Do Pass Amended, Passed, AYES 13, NAYS 0. H.J. 110

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

505D0190

## SENATE EDUCATION COMMITTEE ENGROSSED NO. **HB1058** - 2/18/00

Introduced by: Representatives Eccarius, Brooks, Brown (Richard), Davis, Duniphan, Fiegen, Hennies, Koetzle, Koskan, Peterson, and Richter and Senators Everist, Hainje, Madden, Munson (David), Olson, and Paisley

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to special education.

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

3 Section 1. That § 13-28-42 be repealed.

4 ~~— 13-28-42. The resident district is responsible for the provision of a free appropriate public~~  
5 ~~education for students in need of special education or special education and related services.~~

6 ~~Notwithstanding the provisions of § 13-28-44, a request to transfer a student in need of special~~  
7 ~~education or special education and related services may be granted only if, through the placement~~

8 ~~committee process, the resident and nonresident districts determine that the nonresident district~~  
9 ~~can provide an appropriate instructional program and facilities to meet the student's needs. The~~

10 ~~resident district shall reimburse the nonresident district actual costs incurred in providing an~~  
11 ~~appropriate special education for a student in need of special education and related services.~~

12 ~~Notwithstanding the provisions of § 13-28-45, the placement committee, including~~  
13 ~~representatives of the resident and nonresident districts, shall determine whether a student in~~

14 ~~need of special education requires transportation as a related service. If so, the resident district~~  
15 ~~shall provide or ensure the provision of transportation.~~

1 ~~— If a parent or guardian of a student in need of special education or special education and~~  
2 ~~related services wishes to transfer the student back to the resident district, the request shall be~~  
3 ~~considered by the placement committee. The committee must include representatives of the~~  
4 ~~resident and nonresident districts.~~

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

7 Notwithstanding the provisions of §§ 13-28-44 and 13-37-8.4, a request to transfer a student  
8 in need of special education or special education and related services may be granted only if an  
9 individualized education program team consisting of representatives from the resident and  
10 nonresident districts determines that the nonresident district can provide an appropriate  
11 instructional program and facilities, including transportation, to meet the student's needs. If the  
12 request to transfer is granted, the nonresident district is responsible for the provision of a free  
13 appropriate public education for the student in need of special education or special education and  
14 related services. Notwithstanding the provisions of § 13-28-45, the individualized education  
15 program team shall also determine whether the student in need of special education requires  
16 transportation as a related service. If so, the nonresident district shall provide or ensure the  
17 provision of transportation within the boundaries of the attendance center to which the student  
18 is assigned.

19 If a parent or guardian of a student in need of special education or special education and  
20 related services requests to transfer the student back to the resident district, the individualized  
21 education program team shall consider the request.

22 Section 3. That § 13-37-35.1 be amended to read as follows:

23 13-37-35.1. Terms used in chapter 13-37 mean:

- 24 (1) "Level one disability," a mild disability;  
25 (2) "Level two disability," a mental retardation or emotional disorder;

- 1 (3) "Level three disability," hearing impairment, deafness, visual impairment,  
2 deaf-blindness, orthopedic impairment, or traumatic brain injury;
- 3 (4) "Level four disability," autism;
- 4 (5) "Level five disability," multiple disabilities;
- 5 (6) "Index factor," is the annual percentage change in the consumer price index for urban  
6 wage earners and clerical workers as computed by the Bureau of Labor Statistics of  
7 the United States Department of Labor for the year before the year immediately  
8 preceding the year of adjustment or three percent, whichever is less;
- 9 (7) "Local effort," is the amount of taxes payable each year, using a levy for the special  
10 education fund of a school district of one dollar and thirty-five cents per thousand  
11 dollars of taxable valuation;
- 12 (8) "Allocation for a student with a level one disability," for the school fiscal year  
13 beginning July 1, 1999, is \$3,504. For each school year thereafter, the allocation for  
14 a student with a level one disability shall be the previous fiscal year's allocation for  
15 such child increased by the lesser of the index factor or three percent;
- 16 (9) "Allocation for a student with a level two disability," for the school fiscal year  
17 beginning July 1, 1999, is \$7,914. For each school year thereafter, the allocation for  
18 a student with a level two disability shall be the previous fiscal year's allocation for  
19 such child increased by the lesser of the index factor or three percent;
- 20 (10) "Allocation for a student with a level three disability," for the school fiscal year  
21 beginning July 1, 1999, is \$10,116. For each school year thereafter, the allocation for  
22 a student with a level three disability shall be the previous fiscal year's allocation for  
23 such child increased by the lesser of the index factor or three percent;
- 24 (11) "Allocation for a student with a level four disability," for the school fiscal year  
25 beginning July 1, 1999, is \$14,705. For each school year thereafter, the allocation for

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

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

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

11 (14) ~~"Resident average~~ Average daily membership," the average number of resident  
12 kindergarten through twelfth grade pupils enrolled in all schools operated by the  
13 school district during the previous regular school year plus the average number of  
14 pupils for whom the district pays tuition ~~and plus the average number of resident~~  
15 ~~pupils enrolled in another school district under the provisions of § 13-28-40;~~

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

20 (16) "Nonpublic average daily membership," ~~the average number of kindergarten through~~  
21 ~~twelfth grade pupils enrolled during the previous regular school year in all nonpublic~~  
22 ~~schools located within the boundaries of the public school district plus the average~~  
23 ~~number of children under age sixteen who are approved for alternative instruction~~  
24 ~~pursuant to § 13-27-2 during the previous school year~~ the average number of children  
25 under age sixteen who are approved for alternative instruction pursuant to § 13-27-2

1 during the previous school year plus:

2 (a) For nonpublic schools located within the boundaries of a public school district  
3 with an average daily membership of six hundred or more during the previous  
4 school year, the average number of kindergarten through twelfth grade pupils  
5 enrolled during the previous regular school year in all nonpublic schools  
6 located within the boundaries of the public school district;

7 (b) For nonpublic schools located within the boundaries of a public school district  
8 with an average daily membership of less than six hundred during the previous  
9 school year, the average number of resident kindergarten through twelfth grade  
10 pupils enrolled during the previous school year in all nonpublic schools located  
11 within the State of South Dakota;

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

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

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

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

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

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

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

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

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

7 ~~If a parent or guardian of a student in need of special education or special education and~~  
8 ~~related services wishes to transfer the student back to the resident district, the request shall be~~  
9 ~~considered by the placement committee. The committee must include representatives of the~~  
10 ~~resident and nonresident districts.~~

11 Section 4. That § 13-13-10.1 be amended to read as follows:

12 13-13-10.1. Terms used in this chapter mean:

13 (1) ~~"General enrollment average~~ Average daily membership," the average number of  
14 resident and nonresident kindergarten through twelfth grade pupils enrolled in all  
15 schools operated by the school district during the previous regular school year, minus  
16 average number of pupils for whom the district receives tuition, except pupils  
17 described in subdivision (1A) and pupils for whom tuition is being paid pursuant to  
18 § 13-28-42 and plus the average number of pupils for whom the district pays tuition;  
19 ~~except pupils for whom the district pays tuition pursuant to § 13-28-42;~~

20 (1A) Nonresident students who are in the care and custody of the Department of Social  
21 Services, the Unified Judicial System, the Department of Corrections, or other state  
22 agencies and are attending a public school may be included in the average daily  
23 membership of the receiving district when enrolled in the receiving district. When  
24 counting a student who meets these criteria in its general enrollment average daily  
25 membership, the receiving district may begin the enrollment on the first day of

1 attendance. The district of residence prior to the custodial transfer may not include  
2 students who meet these criteria in its general enrollment average daily membership  
3 after the student ceases to attend school in the resident district;

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

5 (a) For districts with a ~~general enrollment~~ an average daily membership of two  
6 hundred or less, multiply 1.2 times the ~~general enrollment~~ average daily  
7 membership;

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

11 (c) For districts with a ~~general enrollment~~ an average daily membership of six  
12 hundred or more, multiply 1.0 times their ~~general enrollment~~ average daily  
13 membership;

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

18 (4) "Per student allocation," for the period January 1, 1997, to June 30, 1997, inclusive,  
19 is \$1,675. For school fiscal year 1998, beginning on July 1, 1997, the per student  
20 allocation shall be \$3,350 increased by the index factor. Each school fiscal year  
21 thereafter, the per student allocation shall be the previous fiscal year's per student  
22 allocation increased by the index factor;

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

25 (6) "Local effort," the amount of ad valorem taxes generated in a school fiscal year by

1 applying the levies established pursuant to § 10-12-42.

2 Section 5. That § 13-13-1.4 be amended to read as follows:

3 13-13-1.4. If two or more school districts consolidate, for a period of four years after  
4 consolidation, the adjusted average daily membership for the newly formed district shall be based  
5 upon the ~~general enrollment~~ average daily membership as defined in § 13-13-10.1 of those school  
6 districts that have not previously benefited from this section as they existed prior to  
7 consolidation. In years two to four, inclusive, after the consolidation, the relationship between  
8 the adjusted average daily membership and ~~general enrollment~~ average daily membership shall  
9 be proportional to the relationship that existed for the first year.

10 Section 6. That § 13-13-73 be amended to read as follows:

11 13-13-73. The secretary of the Department of Education and Cultural Affairs shall compute  
12 state aid to education for each school district under the foundation program according to the  
13 following calculations:

- 14 (1) Determine each school district's ~~general enrollment~~ average daily membership;
- 15 (2) Multiply the per student allocation by the adjusted average daily membership to arrive  
16 at the local need per district;
- 17 (3) State aid is (a) local need minus local effort, or (b) zero if the calculation in (a) is a  
18 negative number;
- 19 (4) If the state aid appropriation for the general support of education is in excess of the  
20 entitlement provided for in this section, the excess shall be used to fund any shortfall  
21 of the appropriation as provided for in §§ 13-37-36 and 13-37-43. The secretary shall  
22 report to the Governor by January seventh of each year, the amount of state aid  
23 necessary to fully fund the general aid formula in the current year. If a shortfall in the  
24 state aid appropriation for general education exists that cannot be covered by  
25 § 13-37-45, the Governor shall inform the Legislature and provide a proposal to

1 eliminate the shortfall.

2 Section 7. That § 13-15-28 be amended to read as follows:

3 13-15-28. Any school district that enters into contractual agreements pursuant to § 13-15-11  
4 and sends over fifty percent of its resident students enrolled in grades for which it contracts to  
5 an adjoining school district or districts located in South Dakota shall reorganize the school  
6 district pursuant to chapter 13-6 within two years of the end of the school year. For the purposes  
7 of this section, the number of students attending adjoining districts shall be based on ~~general~~  
8 ~~enrollment~~ average daily membership pursuant to subdivision 13-13-10.1(1). This section does  
9 not apply to a school district located wholly within the boundaries of an Indian reservation.

10 Section 8. That § 13-28-40 be amended to read as follows:

11 13-28-40. An enrollment options program is established to enable any South Dakota  
12 kindergarten through twelfth grade student to attend any public school that serves the student's  
13 grade level in any South Dakota school district, subject to the provisions in §§ 13-28-40 to  
14 13-28-47, inclusive. For purposes of determining state aid to education as it relates to the  
15 provisions of §§ 13-28-40 to 13-28-47, inclusive, ~~general enrollment~~ average daily membership  
16 as defined in § 13-13-10.1 is used to compute foundation aid and ~~resident~~ special education  
17 average daily membership as defined in § 13-37-35 is used to determine funding for special  
18 education.

19 Section 9. That § 13-28-39 be amended to read as follows:

20 13-28-39. The Department of Social Services shall pay tuition costs and related service costs  
21 for students in residential treatment centers or group care centers for minors who are under the  
22 care and custody of the Department of Social Services, the Unified Judicial System, or other  
23 entities approved by the secretary of the Department of Social Services. ~~For students with~~  
24 ~~disabilities residing in a foster home, the Department of Social Services shall pay for special~~  
25 ~~education or special education and related services. Students residing in foster homes must be~~

1 ~~in the care and custody of the Department of Social Services, the Unified Judicial System, or~~  
2 ~~other entities approved by the secretary of the Department of Social Services.~~ The Department  
3 of Social Services will have rate setting authority for tuition costs and related service costs.

4 The secretary of the Department of Social Services may promulgate rules, pursuant to  
5 chapter 1-26, pertaining to:

- 6 (1) The amount, scope, and duration of services;
- 7 (2) The basis for and extent of provider payments;
- 8 (3) The method and amount of payment;
- 9 (4) The methods of recoupment or recovery of overpayments;
- 10 (5) Administration, record keeping, and audit requirements;
- 11 (6) Compliance monitoring;
- 12 (7) Reporting requirement;
- 13 (8) Such other standards and requirements as may be necessary to ensure the efficient  
14 operation and administration of the program.

1 **BILL HISTORY**

2 1/14/00 First read in House and referred to Education. H.J. 45

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

4 1/20/00 Deferred by Chair.

5 1/25/00 Scheduled for Committee hearing on this date.

6 1/27/00 Scheduled for Committee hearing on this date.

7 1/27/00 Education Deferred to another day.

8 2/3/00 Scheduled for Committee hearing on this date.

9 2/3/00 Education Do Pass Amended, Passed, AYES 12, NAYS 0. H.J. 377

10 2/7/00 House of Representatives Do Pass Amended, Passed, AYES 68, NAYS 0. H.J. 467

11 2/8/00 First read in Senate and referred to Education. S.J. 358

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

13 2/17/00 Education Do Pass Amended, Passed, AYES 6, NAYS 0. S.J. 545

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

391D0364

SENATE COMMERCE COMMITTEE  
ENGROSSED NO. **HB1133** - 2/16/00

Introduced by: Representatives Roe, Cutler, Eccarius, Fischer-Clemens, Koehn, Michels, and Peterson and Senators Everist, Brown (Arnold), Dunn (Jim), Flowers, Madden, Munson (David), and Shoener

1 FOR AN ACT ENTITLED, An Act to provide insurance coverage for off-label uses of  
2 prescription drugs used for the treatment of cancer or life threatening conditions.

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

4 Section 1. Terms used in this Act mean:

5 (1) "FDA," the federal Food and Drug Administration;

6 (2) "Health insurer," any person who provides health insurance in this state. The term  
7 includes a licensed insurance company, a prepaid hospital or medical service plan, a  
8 health maintenance organization, a multiple employer welfare arrangement, or any  
9 person providing a plan of health insurance subject to state insurance regulation;

10 (3) "Life threatening," either or both of the following:

11 (a) A disease or condition where the likelihood of death is high, unless the course  
12 of the disease is interrupted; or

13 (b) A disease or condition with potentially fatal outcomes where the end point of  
14 clinical intervention is survival;

15 (4) "Medical literature," a published scientific study in a journal or other publication in

1 which original manuscripts have been published only after critical review for scientific  
2 accuracy, validity, and reliability by unbiased independent experts and a determination  
3 by the International Committee of Medical Journal Editors that it meets the Uniform  
4 Requirements for Manuscripts submitted to biomedical journals. The term, medical  
5 literature, does not include a publication or a supplement to a publication that is  
6 sponsored to a significant extent by a pharmaceutical manufacturing company or  
7 health carrier;

8 (5) "Standard reference compendia," one of the following:

9 (a) The United States Pharmacopeia Drug Information;

10 (b) DRUGDEX; or

11 (c) The American Hospital Formulary Service Drug Information;

12 (6) "Off-label," the use of an FDA approved drug for an indication that is not included in  
13 the approved labeling;

14 (7) "Drug," any substance prescribed by a licensed health care provider acting within the  
15 scope of the provider's license and that is intended for use in the diagnosis, mitigation,  
16 treatment, or prevention of disease and is taken by mouth; injected into a muscle, the  
17 skin, a blood vessel, or cavity of the body; applied to the skin; or otherwise  
18 assimilated by the body. The term, drug, includes only those substances that are  
19 approved by the FDA for at least one indication.

20 Section 2. No health insurer issuing a policy which provides coverage for prescription drugs  
21 may exclude coverage of any drug used for the treatment of cancer or life threatening conditions  
22 on the grounds that the drug has not been approved by the FDA for that indication if that drug  
23 is recognized for treatment of such indication in one of the standard reference compendia or in  
24 the medical literature. The prescribing physician shall submit documentation supporting the  
25 proposed off-label use or uses to the insurer, if requested. Any coverage of a drug that serves

1 as the primary treatment required by this Act shall also include medically necessary services  
2 associated with the administration of the drug.

3 Section 3. No coverage is required under this Act for the following:

- 4 (1) Any drug that has not been fully licensed or approved by the FDA;
- 5 (2) The use of any drug if the FDA has determined that use to be contraindicated; or
- 6 (3) Any experimental drug not otherwise approved for any indication by the FDA.

7 Section 4. The provisions of this Act apply to drugs used in the treatment for cancer or life  
8 threatening diseases only, and nothing in this Act may be construed to create, impair, alter, limit,  
9 modify, enlarge, abrogate, or prohibit reimbursement for medications used in the treatment of  
10 any other disease or condition.

11 Section 5. Nothing in this Act may be construed to prevent the application of contractual  
12 deductibles or copayment provisions or managed care review.

13 Section 6. The following drugs or services are not subject to coverage under section 2 of this  
14 Act:

- 15 (1) Any drug that is used in research trials sponsored by the manufacturer of that drug or  
16 a governmental entity; or
- 17 (2) Any drug or service furnished in a research trial, if the sponsor of the research trial  
18 furnishes the drug or service without charge to any participant in the research trial.

19 Section 7. This Act may not be used to reduce or limit coverage for off-label use of drugs  
20 otherwise required by law or contract.

1 **BILL HISTORY**

2 1/18/00 First read in House and referred to Commerce. H.J. 118

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

4 2/1/00 Commerce Do Pass Amended, Passed, AYES 11, NAYS 0. H.J. 342

5 2/3/00 House of Representatives Deferred to another day. H.J. 401

6 2/4/00 House of Representatives Deferred to another day. H.J. 433

7 2/7/00 House of Representatives Do Pass Amended, Passed, AYES 58, NAYS 7. H.J. 444

8 2/8/00 First read in Senate and referred to Commerce. S.J. 359

9 2/15/00 Scheduled for Committee hearing on this date.

10 2/15/00 Commerce Do Pass Amended, Passed, AYES 7, NAYS 0. S.J. 493

11 2/15/00 Commerce Place on Consent Calendar.

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

933D0399

## SENATE TAXATION COMMITTEE ENGROSSED NO. **HB1139** - 2/17/00

Introduced by: Representatives Cutler, Apa, Garnos, Koskan, Napoli, Smidt, and Waltman and  
Senators Paisley, Daugaard, and Olson

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

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

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

5 10-12-42. For taxes payable in ~~2000~~ 2001 and each year thereafter, the levy for the general  
6 fund of a school district shall be as follows:

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

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

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

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

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

1 **BILL HISTORY**

2 1/18/00 First read in House and referred to Taxation. H.J. 119

3 1/25/00 Scheduled for Committee hearing on this date.

4 2/1/00 Scheduled for Committee hearing on this date.

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

6 2/8/00 Scheduled for Committee hearing on this date.

7 2/8/00 Taxation Do Pass, Passed, AYES 8, NAYS 0. H.J. 499

8 2/9/00 House of Representatives Do Pass, Passed, AYES 66, NAYS 0. H.J. 547

9 2/10/00 First read in Senate and referred to Taxation. S.J. 426

10 2/16/00 Scheduled for Committee hearing on this date.

11 2/16/00 Taxation Do Pass Amended, Passed, AYES 8, NAYS 0. S.J. 522

12 2/16/00 Taxation Place on Consent Calendar.

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

508D0537

## SENATE JUDICIARY COMMITTEE ENGROSSED NO. **HB1184** - 2/17/00

Introduced by: Representatives Fiegen, Brooks, Cutler, Derby, Diedrich (Larry), Juhnke, McNenny, Michels, and Wilson and Senators Brown (Arnold) and Rounds

1 FOR AN ACT ENTITLED, An Act to provide immunity to members of county boards of mental  
2 illness and county review boards.

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

4 Section 1. That chapter 27A-7 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 Any person serving as a member of a county board of mental illness, whose action regarding  
7 the applications or petitions for involuntary commitment or for the safekeeping otherwise of  
8 persons subject to involuntary commitment is taken in good faith, is immune from any civil  
9 liability that might otherwise be incurred or imposed. The immunity from civil liability under this  
10 section does not apply if injury results from gross negligence or willful or wanton misconduct.

11 Section 2. That chapter 27B-7 be amended by adding thereto a NEW SECTION to read as  
12 follows:

13 Any person serving as a member of a county review board, whose action regarding the  
14 applications or petitions for involuntary commitment or for the safekeeping otherwise of persons  
15 subject to involuntary commitment is taken in good faith, is immune from any civil liability that  
16 might otherwise be incurred or imposed. The immunity from civil liability under this section does

1 not apply if injury results from gross negligence or willful or wanton misconduct.

1 **BILL HISTORY**

2 1/19/00 First read in House and referred to committee assignment waived. H.J. 138

3 1/20/00 Referred to Judiciary.

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

5 1/31/00 Judiciary Deferred to another day.

6 2/2/00 Deferred by Chair.

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

8 2/4/00 Judiciary Do Pass, Passed, AYES 9, NAYS 2. H.J. 412

9 2/7/00 House of Representatives Deferred to another day. H.J. 469

10 2/8/00 House of Representatives Do Pass, Passed, AYES 57, NAYS 8. H.J. 494

11 2/9/00 First read in Senate and referred to Judiciary. S.J. 399

12 2/16/00 Scheduled for Committee hearing on this date.

13 2/16/00 Judiciary Do Pass Amended, Passed, AYES 5, NAYS 1. S.J. 522

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

400D0671

## SENATE ENGROSSED NO. **HB1200** - 2/22/00

Introduced by: Representatives Michels, Brown (Richard), Davis, Haley, Hennies, Koetzle, Lockner, Lucas, and Peterson and Senators Albers, Brosz, Brown (Arnold), and Symens

1 FOR AN ACT ENTITLED, An Act to require criminal background checks of school employees  
2 and to prohibit employment of certain persons in schools.

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

4 Section 1. That chapter 13-10 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 Each person hired by a school district shall submit to a criminal background investigation,  
7 by means of fingerprint checks by the Division of Criminal Investigation and the Federal Bureau  
8 of Investigation. The school district shall submit completed fingerprint cards to the Division of  
9 Criminal Investigation before the prospective new employee enters into service. If no  
10 disqualifying record is identified at the state level, the fingerprints shall be forwarded by the  
11 Division of Criminal Investigation to the Federal Bureau of Investigation for a national criminal  
12 history record check. Any person whose employment is subject to the requirements of this  
13 section may enter into service on a temporary basis pending receipt of results of the criminal  
14 background investigation. The employing school district may, without liability, withdraw its offer  
15 of employment or terminate the temporary employment without notice if the report reveals a  
16 disqualifying record. Any person whose employment is subject to the requirements of this section

1 shall pay any fees charged for the criminal record check. However, the school board or  
2 governing body may reimburse the person for the fees. Any person hired to officiate, judge,  
3 adjudicate, or referee an event conducted under the authority of the South Dakota High School  
4 Activities Association is not required to submit to a criminal background investigation as  
5 required in this section.

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

8 A school district may refuse to employ a person, either directly or by contract, who has been  
9 convicted of a crime involving moral turpitude as defined in subdivision 22-1-2(25), including  
10 traffic in narcotics; a crime of violence as defined in subdivision 22-1-2(9); or a sex offense as  
11 defined in § 22-22-30.

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

14 Any person employed by a South Dakota school district on the effective date of this Act who  
15 remains continuously employed by a South Dakota school district for consecutive school years  
16 is not required to submit to a criminal background check as provided in section 1 of this Act.

17 Section 4. That chapter 13-10 be amended by adding thereto a NEW SECTION to read as  
18 follows:

19 If a school board or governing body of any accredited school suspends an employee or an  
20 employee resigns or is terminated as a result of a criminal conviction, the superintendent or chief  
21 administrator shall, within ten days of the date of the suspension or the date the employment is  
22 severed, report the circumstances and the name of the employee to the Department of Education  
23 and Cultural Affairs. Any superintendent or chief administrator who fails to report under this  
24 section is subject to sanctions found in § 13-8-48.

25 Section 5. For purposes of this Act, the term, conviction, means a plea or verdict of guilty

- 1 or a conviction following a plea of nolo contendere in this state or any other state. A duly certified
- 2 copy of the court record is proof of the conviction and sentence.

1 **BILL HISTORY**

2 1/19/00 First read in House and referred to committee assignment waived. H.J. 141

3 1/20/00 Referred to Education. H.J. 161

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

5 2/3/00 Education Do Pass Amended, Passed, AYES 12, NAYS 0. H.J. 382

6 2/7/00 House of Representatives Deferred to another day. H.J. 468

7 2/9/00 Motion to Amend, Passed. H.J. 537

8 2/9/00 House of Representatives Do Pass Amended, Passed, AYES 63, NAYS 3. H.J. 538

9 2/10/00 First read in Senate and referred to Education. S.J. 427

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

11 2/15/00 Education Do Pass Amended, Passed, AYES 7, NAYS 0. S.J. 490

12 2/17/00 Senate Deferred to another day. S.J. 559

13 2/18/00 Motion to Amend, Passed. S.J. 579

14 2/18/00 Senate Do Pass Amended, Passed, AYES 23, NAYS 11. S.J. 579

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

448D0703

SENATE STATE AFFAIRS COMMITTEE

ENGROSSED NO. **HB1239** - 2/17/00

Introduced by: Representatives Fischer-Clemens, Brown (Jarvis), Chicoine, Davis, Haley, Klautt, Koehn, Koetzle, Kooistra, Lockner, Lucas, McIntyre, Patterson, Waltman, and Wilson and Senators Hutmacher, Brown (Arnold), Daugaard, Dunn (Rebecca), Duxbury, and Flowers

1 FOR AN ACT ENTITLED, An Act to limit the use of mechanical restraints in juvenile  
2 correctional facilities.

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

4 Section 1. That chapter 26-11A be amended by adding thereto a NEW SECTION to read  
5 as follows:

6 No agent or employee of the Department of Corrections may use or employ restraints upon  
7 a juvenile committed to the Department of Corrections except:

- 8 (1) To prevent imminent bodily harm;
- 9 (2) As a precaution against escape or to prevent an escape;
- 10 (3) To prevent imminent property damages; or
- 11 (4) When reasonable under emergency circumstances.

12 For purposes of this Act, restraints are handcuffs, legcuffs, restraint belts, and tethers made  
13 of fabric, metal, plastic, or leather; restraint boards, restraint chairs, swaddle beds, and  
14 mechanisms to secure cuffs to a bed, restraint board, or chair.

1 **BILL HISTORY**

2 1/21/00 First read in House and referred to committee assignment waived. H.J. 178

3 1/24/00 Referred to State Affairs. H.J. 206

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

5 1/31/00 State Affairs Do Pass, Passed, AYES 10, NAYS 3. H.J. 324

6 2/2/00 House of Representatives Deferred to another day. H.J. 370

7 2/3/00 House of Representatives Deferred to another day. H.J. 401

8 2/4/00 Motion to Amend, Passed, AYES 54, NAYS 11. H.J. 424

9 2/4/00 House of Representatives Do Pass Amended, Passed, AYES 57, NAYS 7. H.J. 425

10 2/7/00 First read in Senate and referred to State Affairs. S.J. 343

11 2/16/00 Scheduled for Committee hearing on this date.

12 2/16/00 State Affairs Do Pass Amended, Passed, AYES 9, NAYS 0. S.J. 520

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

556D0707

SENATE STATE AFFAIRS COMMITTEE  
ENGROSSED NO. **HB1272** - 2/17/00

Introduced by: Representatives Wilson, Fiegen, Haley, and Hennies and Senator Moore

1 FOR AN ACT ENTITLED, An Act to provide for periodic judicial review of status of children  
2 in custody of the Department of Corrections.

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

4 Section 1. That chapter 26-7A be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 Within thirty days after a child is committed to the Department of Corrections under this  
7 chapter, or chapter 26-8B or 26-8C, and every ninety days thereafter while the child remains in  
8 a correctional placement, the Department of Corrections shall file a written report with the court  
9 which committed such child. This written report shall contain the following information:

- 10 (1) The results of any assessments of the child concerning the child's emotional, mental,  
11 educational, psychological, psychiatric, medical, physical, or health status and needs;  
12 and  
13 (2) Information regarding the placement of the child within particular programs  
14 administered by the Department of Corrections; and  
15 (3) Progress of the child in programs administered by the Department of Corrections.

16 Section 2. That chapter 26-7A be amended by adding thereto a NEW SECTION to read as

1 follows:

2       Upon review of the information provided in section 1 of this Act, the court may, upon its  
3 own motion, enter an order compelling the secretary of corrections to appear and show cause  
4 why the court should not order the discharge of the child from the department, order the child  
5 to be restored to the child's parents, guardian, or custodian, order the child to be placed under  
6 the guardianship of another person appointed by the court and placed in a suitable family home,  
7 or order an amended decree of disposition pursuant to § 26-8B-6 or 26-8C-7. At the hearing,  
8 the court shall determine if the best interests of the child will be promoted by the child's discharge  
9 from the department.

1 **BILL HISTORY**

2 1/24/00 First read in House and referred to committee assignment waived. H.J. 197

3 1/25/00 Referred to State Affairs.

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

5 1/31/00 State Affairs Do Pass, Passed, AYES 8, NAYS 5. H.J. 324

6 2/2/00 House of Representatives Deferred to another day. H.J. 370

7 2/3/00 House of Representatives Deferred to another day. H.J. 401

8 2/4/00 House of Representatives Do Pass, Passed, AYES 57, NAYS 7. H.J. 426

9 2/7/00 First read in Senate and referred to State Affairs. S.J. 343

10 2/16/00 Scheduled for Committee hearing on this date.

11 2/16/00 State Affairs Do Pass Amended, Passed, AYES 9, NAYS 0. S.J. 521

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

484D0646

## SENATE ENGROSSED NO. **HB1282** - 2/22/0

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

Introduced by: Representatives Klaudt, Duenwald, Fryslie, Hunt, Koskan, Sebert, Wetz, and Wilson and Senators Bogue, Benson, Kleven, Lawler, Madden, and Vitter

1 FOR AN ACT ENTITLED, An Act to prohibit persons other than physicians from performing  
2 or inducing abortions.

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

4 Section 1. That chapter 36-4A be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 The board may not approve any practice agreement that includes abortion as a permitted  
7 procedure.

8 Section 2. That chapter 36-9A be amended by adding thereto a NEW SECTION to read as  
9 follows:

10 The boards may not approve any collaborative agreement that includes abortion as a  
11 permitted procedure.

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

5 2/7/00 Scheduled for Committee hearing on this date.

6 2/7/00 Health and Human Services Do Pass Amended, Passed, AYES 10, NAYS 2. H.J. 450

7 2/9/00 House of Representatives Do Pass Amended, Passed, AYES 61, NAYS 4. H.J. 544

8 2/10/00 First read in Senate and referred to Health and Human Services. S.J. 429

9 2/16/00 Scheduled for Committee hearing on this date.

10 2/16/00 Health and Human Services Do Pass, Passed, AYES 4, NAYS 3. S.J. 539

11 2/17/00 Senate Deferred to another day. S.J. 559

12 2/18/00 Senate Deferred to another day. S.J. 580

13 2/22/00 House of Representatives Hog Housed.

14 2/22/00 Motion to Amend, Passed.

15 2/22/00 Senate Do Pass Amended, Passed, AYES 25, NAYS 9.

16 2/22/00 Senate Title Amended Passed.

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

655D0834

## HOUSE STATE AFFAIRS COMMITTEE ENGROSSED NO. **HCR1014** - 2/22/00

Introduced by: Representatives Hunt, Apa, Broderick, Brooks, Brown (Richard), Burg, Cerny, Crisp, Cutler, Duenwald, Hagen, Hanson, Hennies, Kooistra, Michels, Pummel, Putnam, Sebert, Smidt, Waltman, and Wudel and Senators Benson, Brown (Arnold), Lange, Lawler, and Valandra

1 A CONCURRENT RESOLUTION, Memorializing Congress to provide appropriate funding  
2 and support for veterans' hospitals.

3 WHEREAS, at a time when the Cold War has been won and the draft has been replaced with  
4 an all-volunteer military, few Americans who have not actually suffered the loss of a husband,  
5 father, or son while defending their country during World War II, the Korean War, or Vietnam  
6 are likely to reflect upon or adequately appreciate the personal sacrifice that our country has  
7 demanded of its veterans; and

8 WHEREAS, at a time when many Americans believe that they are entitled to a broad  
9 spectrum of federal benefits merely by right of citizenship, they may forget that our veterans  
10 earned, many times over, each and every consideration that a grateful nation has ever extended  
11 to them in an inadequate attempt to partially compensate the enormous personal sacrifice that  
12 they made for the public weal; and

13 WHEREAS, at a time when many Americans are young, strong, and prosperous, it is easy  
14 to forget that our veterans of foreign wars gave their youth, their strength, and many financial  
15 opportunities to the defense of freedom and that many are now elderly, disabled, in ill health, or

1 in financial difficulties; and

2 WHEREAS, at a time when the economy is robust and politicians are proposing elaborate  
3 plans for spending the budget surplus, it is appropriate to reflect that during the long years of  
4 budget deficits the Veterans' Administration bore its full share of budget restraints and that care  
5 and services at veterans' hospitals has not been able to keep pace with the health needs of our  
6 veterans despite the dedicated service of Veterans' Administration employees:

7 NOW, THEREFORE, BE IT RESOLVED, by the House of Representatives of the Seventy-  
8 fifth Legislature of the State of South Dakota, the Senate concurring therein, that Congress be  
9 urged to support our veterans' hospitals, to encourage the efficient utilization of resources, and  
10 to provide funding at a level appropriate to the need and that the South Dakota congressional  
11 delegation be memorialized to ensure that the health and care of our veterans continues to be the  
12 national priority that it deserves to remain.

1 **BILL HISTORY**

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

3 2/18/00 Scheduled for Committee hearing on this date.

4 2/18/00 State Affairs Adopt Resolution as Amended, AYES 12, NAYS 0. H.J. 748

# 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

400D0349

SENATE APPROPRIATIONS COMMITTEE

ENGROSSED NO. **SB27** - 2/9/00

Introduced by: The Committee on Appropriations at the request of the Department of Social Services

1 FOR AN ACT ENTITLED, An Act to appropriate funds from the special racing revolving fund  
2 and the South Dakota-bred racing fund to the Department of Social Services for domestic  
3 and sexual abuse shelter programs.

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

5 Section 1. The Commission on Gaming on or about July 15, 2000, shall transfer one hundred  
6 twenty-five thousand dollars from the special racing revolving fund and one hundred twenty-five  
7 thousand dollars from the South Dakota-bred racing fund to the Department of Social Services  
8 to provide grants to qualifying contractors according to the provisions of §§ 25-10-26 to 25-10-  
9 33, inclusive.

10 Section 2. There is hereby appropriated the sum of two hundred fifty thousand dollars  
11 (\$250,000), of other fund expenditure authority, or so much thereof as may be necessary, to the  
12 Department of Social Services for the expenditure of funds provided in section 1 of this Act.

13 Section 3. The secretary of social services shall approve vouchers and the state auditor shall  
14 draw warrants to pay expenditures authorized by this Act.

1 **BILL HISTORY**

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

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

4 2/2/00 Deferred by Chair.

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

6 2/8/00 Appropriations Do Pass Amended, Passed, AYES 9, NAYS 1. S.J. 347

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

400D0351

## SENATE EDUCATION COMMITTEE ENGROSSED NO. **SB28** - 1/28/00

Introduced by: The Committee on Education at the request of the Department of Social Services

1 FOR AN ACT ENTITLED, An Act to provide payment of tuition costs to education programs  
2 for students in governmental custody and to eliminate certain payments to educational  
3 programs operated by public school districts.

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

5 Section 1. That § 13-28-39 be amended to read as follows:

6 13-28-39. The Department of Social Services shall pay tuition costs and related service costs  
7 for students in residential treatment centers or group care centers for minors ~~who~~ when the  
8 educational program is not operated by a public school district and the students are under the  
9 care and custody of the Department of Social Services, the ~~Unified Judicial System~~ Department  
10 of Corrections, or other entities approved by the secretary of the Department of Social Services.  
11 For students with disabilities residing in a foster home, the Department of Social Services shall  
12 pay for special education or special education and related services. Students residing in foster  
13 homes must be in the care and custody of the Department of Social Services, the ~~Unified Judicial~~  
14 ~~System~~ Department of Corrections, or other entities approved by the secretary of the  
15 Department of Social Services. The Department of Social Services ~~will have rate setting~~  
16 authority may set rates for tuition costs and related service costs.

1       The secretary of the Department of Social Services may promulgate rules, pursuant to  
2 chapter 1-26, pertaining to:

- 3       (1)    The amount, scope, and duration of services;
- 4       (2)    The basis for and extent of provider payments;
- 5       (3)    The method and amount of payment;
- 6       (4)    The methods of recoupment or recovery of overpayments;
- 7       (5)    Administration, record keeping, and audit requirements;
- 8       (6)    Compliance monitoring;
- 9       (7)    Reporting requirement; and
- 10      (8)    Such other standards and requirements as may be necessary to ensure the efficient  
11            operation and administration of the program.

1 **BILL HISTORY**

2 1/11/00 First read in Senate and referred to Education. S.J. 19

3 1/13/00 Scheduled for Committee hearing on this date.

4 1/18/00 Scheduled for Committee hearing on this date.

5 1/18/00 Education Do Pass, Passed, AYES 4, NAYS 2. S.J. 68

6 1/18/00 Referred to Education. S.J. 69

7 1/20/00 Scheduled for Committee hearing on this date.

8 1/27/00 Scheduled for Committee hearing on this date.

9 1/27/00 Education Do Pass Amended, Passed, AYES 7, NAYS 0. S.J. 219

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

400D0296

HOUSE APPROPRIATIONS COMMITTEE

ENGROSSED NO. **SB41** - 2/22/00

Introduced by: The Committee on Appropriations at the request of the Department of  
Environment and Natural Resources

1 FOR AN ACT ENTITLED, An Act to authorize expenditures out of the water and environment  
2 fund, to amend the state water plan, and to declare an emergency.

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

4 Section 1. There is hereby appropriated from the South Dakota water and environment fund  
5 established pursuant to § 46A-1-60, the sum of four million five hundred thousand dollars  
6 (\$4,500,000), or so much thereof as may be necessary, to the South Dakota Conservancy  
7 District for the purpose of providing grants and loans to project sponsors under the consolidated  
8 water facilities construction program established pursuant to § 46A-1-63.1. Funds shall be  
9 provided according to terms and conditions established by the Board of Water and Natural  
10 Resources.

11 Section 2. In accordance with § 46A-1-64, the Legislature hereby authorizes the Board of  
12 Water and Natural Resources to provide grant funding from the South Dakota water and  
13 environment fund, under the consolidated water facilities construction program established in  
14 § 46A-1-63.1, in amounts not to exceed one million seven hundred fifty thousand dollars  
15 (\$1,750,000) to the Randall Community Water District, for the expansion of water services, to  
16 include the delivery of bulk water to Aurora-Brule Rural Water System, Inc. and Davison Rural

1 Water System, Inc. Funds shall be provided according to the terms and conditions established  
2 by the Board of Water and Natural Resources.

3 Section 3. There is hereby appropriated from the South Dakota water and environment fund  
4 established pursuant to § 46A-1-60, the sum of two hundred thousand dollars (\$200,000), or so  
5 much thereof as may be necessary, to the South Dakota Conservancy District for the purpose  
6 of providing a grant to local project sponsors for the congressional authorization, engineering  
7 design, preconstruction activities, and construction of the Lewis and Clark rural water system  
8 as authorized in § 46A-1-13.10. Funds shall be provided according to terms and conditions  
9 established by the Board of Water and Natural Resources.

10 Section 4. There is hereby appropriated from the South Dakota water and environment fund  
11 established pursuant to § 46A-1-60, the sum of two million dollars (\$2,000,000), or so much  
12 thereof as may be necessary, to the South Dakota Conservancy District for the purpose of  
13 providing a loan to the project sponsors to be used for the engineering design, preconstruction  
14 activities, and construction of the facilities included in the Mni Wiconi rural water system as  
15 authorized in § 46A-1-13.4. Funds shall be used by the project sponsors for activities that qualify  
16 as nonfederal matching requirements as enumerated in P.L. 100-516 as amended to January 1,  
17 1999. Funds shall be provided according to terms and conditions established by the Board of  
18 Water and Natural Resources.

19 Section 5. There is hereby appropriated from the South Dakota water and environment fund  
20 established pursuant to § 46A-1-60, the sum of three hundred thousand dollars (\$300,000), or  
21 so much thereof as may be necessary, to the South Dakota Conservancy District for the purpose  
22 of providing a grant to local project sponsors for the engineering design, right-of-way  
23 acquisition, preconstruction activities, and construction of the Sioux Falls flood control project  
24 as authorized in § 46A-1-13.7. Funds shall be provided according to terms and conditions  
25 established by the Board of Water and Natural Resources.

1 Section 6. There is hereby appropriated from the South Dakota water and environment fund  
2 established pursuant to § 46A-1-60, the sum of forty thousand dollars (\$40,000), or so much  
3 thereof as may be necessary, to the South Dakota Conservancy District for the purpose of  
4 providing a loan to local project sponsors to be used to implement the Lake Andes Wagner  
5 Irrigation Project authorized in § 46A-1-13.6. Funds shall be provided according to terms and  
6 conditions established by the Board of Water and Natural Resources.

7 Section 7. That § 46A-1-2.1 be amended to read as follows:

8 46A-1-2.1. The Legislature finds that the following water resources projects are necessary  
9 for the general welfare of the people of the State of South Dakota and authorizes the projects  
10 pursuant to § 46A-1-2 to be included in the state water resources management system to serve  
11 as the preferred, priority objectives of the state: Bad River watershed project, ~~Belle Fourche~~  
12 ~~irrigation project~~, Big Sioux flood control study, Black Hills hydrology and water management  
13 study, Brennan reservoir, Cendak irrigation project, ~~Fall River county rural water system~~,  
14 Gregory county pumped storage site, James River improvement program, Lake  
15 Andes-Wagner/Marty II irrigation unit, Lewis and Clark rural water system, ~~Mid-Dakota rural~~  
16 ~~water system~~, Mni Wiconi rural water system, ~~Perkins county rural water system~~, Pick-Sloan  
17 riverside irrigation, Sioux Falls flood control project, Slip-Up Creek, and Vermillion basin flood  
18 control project.

19 Section 8. Notwithstanding § 34A-6-85, there is hereby appropriated from the South Dakota  
20 water and environment fund established pursuant to § 46A-1-60, from the fees received pursuant  
21 to §§ 34A-6-81 to 34A-6-84, inclusive, a grant in the sum of one million five hundred thousand  
22 dollars (\$1,500,000), or so much thereof that may be necessary, to the South Dakota  
23 Department of Environment and Natural Resources to be used for the statewide cleanup of waste  
24 tires and solid waste. Notwithstanding § 46A-1-61, the department may fund up to one hundred  
25 percent of the nonfederal share of a statewide waste tire and solid waste cleanup project.

1           Section 9. Whereas, this Act is necessary for the support of the state government and its  
2 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full  
3 force and effect from and after its passage and approval.

1 **BILL HISTORY**

2 1/11/00 First read in Senate and referred to Appropriations. S.J. 21

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

4 2/1/00 Deferred by Chair.

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

6 2/8/00 Appropriations Do Pass Amended, Passed, AYES 10, NAYS 0. S.J. 348

7 2/10/00 Senate Do Pass Amended, Passed, AYES 34, NAYS 1. S.J. 420

8 2/11/00 First read in House and referred to Appropriations. H.J. 608

9 2/18/00 Scheduled for Committee hearing on this date.

10 2/18/00 Appropriations Deferred to another day.

11 2/22/00 Scheduled for Committee hearing on this date.

12 2/22/00 Appropriations Do Pass Amended, Passed, AYES 9, NAYS 0.

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

357D0071

## SENATE TAXATION COMMITTEE ENGROSSED NO. **SB69** - 2/3/00

Introduced by: Senators Olson and Rounds and Representatives Sebert, Fischer-Clemens, and Michels

1 FOR AN ACT ENTITLED, An Act to exempt materials used in certain construction projects  
2 outside of the state from the use tax.

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

4 Section 1. That § 10-46-5 be amended to read as follows:

5 10-46-5. If a contractor or subcontractor, as defined in chapters 10-46A and 10-46B, uses  
6 tangible personal property in the performance of ~~his~~ a contract or to fulfill contract or  
7 subcontract obligations, whether the title to the property is in the name of the contractor,  
8 subcontractor, contractee, subcontractee, or any other person, or whether the titleholder of the  
9 property would be subject to pay the sales or use tax, the contractor or subcontractor shall pay  
10 a tax at the rate prescribed by § 10-45-2; However, any tangible personal property fabricated  
11 by a contractor or subcontractor in South Dakota and used by such contractor or subcontractor,  
12 as defined in chapters 10-46A and 10-46B, in the performance of a contract for any public  
13 corporation of any other state of the United States or the District of Columbia or any  
14 organization located in any other state of the United States or the District of Columbia that has  
15 been recognized as an exempt organization under § 501(c)(3) of the Internal Revenue Code, is  
16 exempted from the provisions of this chapter. The value of the tangible personal property shall

1 be measured by the purchase price or fair market value of the property, whichever is greater,  
2 unless the property has been previously subjected to a sales or use tax, in this state and the tax  
3 due thereon has been paid. However, if the contractor or subcontractor fabricates tangible  
4 personal property for use in the performance of ~~his~~ a contract, fair market value excludes the  
5 value of the contractor's or subcontractor's fabrication costs.

1 **BILL HISTORY**

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

3 1/26/00 Scheduled for Committee hearing on this date.

4 1/26/00 Taxation Deferred to another day.

5 1/28/00 Scheduled for Committee hearing on this date.

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

7 2/2/00 Taxation Do Pass Amended, Passed, AYES 7, NAYS 1. S.J. 286

# 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

149D0409

## HOUSE TRANSPORTATION COMMITTEE

### ENGROSSED NO. **SB93** - 2/22/00

**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, Daugaard, Flowers, Hainje, Lawler, Moore, Munson (David), Rounds, Shoener, Symens, and Vitter and Representatives Konold, Brooks, Brown (Richard), Diedtrich (Elmer), Duenwald, Garnos, Hennies, Klaudt, Kooistra, Lintz, McCoy, Munson (Donald), Sutton (Duane), Volesky, Wetz, Wilson, and Young

1 FOR AN ACT ENTITLED, An Act to revise the provisions limiting the expenditure of county  
2 road and bridge funds and to declare an emergency.

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

4 Section 1. That § 32-11-2 be amended to read as follows:

5 32-11-2. The funds credited to the county road and bridge fund pursuant to § 32-11-4.2 shall  
6 be used by the board of county commissioners for grading, constructing, planing, dragging, and  
7 maintaining county highways ~~outside the limits of municipalities~~ and also for dragging,  
8 maintaining, and grading secondary roads. Proper equipment for dragging, grading, and  
9 maintaining highways, such as graders, tractors, drags, maintainers, and planers may be  
10 purchased from such county road and bridge fund.

11 Section 2. Whereas, this Act is necessary for the support of the state government and its  
12 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full  
13 force and effect from and after its passage and approval.

1 **BILL HISTORY**

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

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

4 1/20/00 Commerce Do Pass, Passed, AYES 5, NAYS 2. S.J. 125

5 1/21/00 Senate Deferred to another day. S.J. 142

6 1/25/00 Motion to Amend, Passed. S.J. 190

7 1/25/00 Senate Do Pass Amended, Passed, AYES 22, NAYS 11. S.J. 190

8 1/26/00 First read in House and referred to Transportation. H.J. 261

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

10 2/14/00 Deferred to 36th legislative day, AYES 7, NAYS 6. H.J. 640

11 2/18/00 Transportation Hog Housed.

12 2/18/00 Transportation Reconsidered.

13 2/18/00 Transportation Do Pass Amended, Passed, AYES 9, NAYS 1. H.J. 742

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

418D0430

## HOUSE STATE AFFAIRS COMMITTEE ENGROSSED NO. **SB108** - 2/22/00

Introduced by: Senators Staggers and Albers and Representatives Koehn, Klaudt, Koetzle, and  
Patterson

1 FOR AN ACT ENTITLED, An Act to provide for DNA testing for certain inmates for the  
2 purposes of determining whether they may have been wrongfully convicted.

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

4 Section 1. Any person confined in the state penitentiary for a conviction of murder or any  
5 felony under chapter 22-22 may petition a circuit court to order deoxyribonucleic acid (DNA)  
6 testing on evidence relevant to that person's case and on a sample drawn from that person if the  
7 evidence in question has not already been subjected to DNA testing which was introduced at a  
8 prior proceeding. The court shall schedule a hearing on the petition within one hundred eighty  
9 days. The court on hearing the petition shall consider:

- 10 (1) The likelihood of sufficient DNA being recovered from the evidence to generate a  
11 sufficient sample for testing; and
- 12 (2) The likelihood that the results of DNA testing, if results do not match the DNA of the  
13 petitioner, would, if introduced at trial, produce sufficient reasonable doubt to prevent  
14 conviction.

15 If the court finds sufficient evidence, it shall order DNA testing to be done at the state's  
16 expense. The sample from the petitioner shall be collected by a health professional licensed or

1 certified to do so. The sample from the evidence shall be collected by a competent professional.  
2 If the court determines that the results of testing, if introduced at trial, might reasonably produce  
3 sufficient doubt regarding the petitioner's guilt or result in a reversal of the petitioner's  
4 conviction, the court shall immediately order a trial de novo. If the test results do not result in  
5 a new trial or if the petitioner is reconvicted and that conviction, if appealed, is upheld, the  
6 petitioner shall reimburse the state for the costs of the testing.

7 Section 2. Any law enforcement agency of the state shall preserve any DNA evidence in its  
8 possession that it knows or should know exists, if that evidence is relevant to any conviction of  
9 murder or of any felony under chapter 22-22. No law enforcement agency needs to preserve  
10 DNA evidence if the conviction has been overturned and the state has exhausted its appeals or  
11 declined to appeal, the convicted person has completed the sentence and has not indicated any  
12 intention to appeal, or the convicted person has died without filing an appeal.

13 Section 3. This Act is effective January 1, 2002.

1 **BILL HISTORY**

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

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

4 1/21/00 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 6, NAYS 0. S.J. 327

7 2/9/00 Senate Do Pass Amended, Passed, AYES 33, NAYS 1. S.J. 391

8 2/10/00 First read in House and referred to State Affairs. H.J. 563

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

10 2/14/00 State Affairs Deferred to another day.

11 2/16/00 Scheduled for Committee hearing on this date.

12 2/18/00 Scheduled for Committee hearing on this date.

13 2/18/00 State Affairs Do Pass Amended, Passed, AYES 7, NAYS 5. H.J. 746

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

980D0684

## HOUSE HEALTH AND HUMAN SERVICES COMMITTEE ENGROSSED NO. **SB124** - 2/22/00

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

Introduced by: Senator Brown (Arnold) and Representative Fiegen

1 FOR AN ACT ENTITLED, An Act to allow the transfer of funds from certain nursing facilities  
2 to the intergovernmental transfer fund.

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

4 Section 1. That chapter 28-6 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 Terms used in this Act mean:

- 7 (1) "Department," the Department of Social Services;
- 8 (2) "Fiscal period," up to a twelve-month period determined by the department;
- 9 (3) "Funding pool," pool of funds established in accordance with section 2 of this Act;
- 10 (4) "Intergovernmental transfer fund," the fund established to hold the federal portion of  
11 the monetary difference between the medicaid payment and the medicare upper limits  
12 maximum allowable reimbursement, less transaction fees paid to publicly owned and  
13 operated nursing facilities;
- 14 (5) "Medical assistance," the medicaid program authorized by Title XIX of the Social  
15 Security Act, 42 U.S.C.1396d, as amended through January 1, 2000, which provides  
16 medical assistance to eligible individuals and is operated under § 28-6-1;

1 (6) "Medicare," the Health Insurance for the Aged Act, Title XVIII of the Social Security  
2 Amendments of 1965 and as amended through January 1, 2000;

3 (7) "Nursing facility," any facility participating in medicaid that is licensed, maintained,  
4 and operated for the express or implied purpose of providing care to one or more  
5 persons, whether for consideration or not, who are not acutely ill but require nursing  
6 care and related medical services of such complexity as to require professional nursing  
7 care under the direction of a physician twenty-four hours a day;

8 (8) "Political subdivision," any municipality or county;

9 (9) "Publicly owned and operated nursing facility," a nursing facility that is owned and  
10 operated by a political subdivision of the state and is participating in medicaid.

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

13 The department shall establish a funding pool consisting of an amount annually calculated  
14 by multiplying the total of all medical assistance resident days of all nursing homes during the  
15 fiscal period during which a resident was eligible for and received benefits under chapter 28-6  
16 times an amount that does not exceed the amount that can reasonably be estimated to be paid  
17 under payment principles established under medicare, reduced by the medical assistance payment  
18 rates set for each such resident, for each such day, during the fiscal period.

19 Section 3. That chapter 28-6 be amended by adding thereto a NEW SECTION to read as  
20 follows:

21 In addition to any payment made pursuant to a rate set under this Act, and notwithstanding  
22 any other provision of this Act, the department shall pay to each publicly owned and operated  
23 nursing facility participating under the provisions of this Act an amount determined by:

24 (1) Dividing that facility's total medical assistance resident days for the fiscal period by  
25 the total medical assistance resident days of all publicly owned and operated nursing

1 facilities participating under the provisions of this Act for the fiscal period; and

2 (2) Multiplying a decimal fraction determined under subdivision (1), times the funding  
3 pool amount determined under section 2 of this Act.

4 Section 4. That chapter 28-6 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 Each publicly owned and operated nursing facility participating under the provisions of this  
7 Act, immediately upon receiving a payment under section 3 of this Act, shall remit the amount  
8 of that payment, less a transaction fee, to the department for credit to:

9 (1) The intergovernmental transfer fund in an amount equal to the applicable federal  
10 medical assistance percentage times the total remittance to the department, less the  
11 transaction fee; and

12 (2) The department's other funds for all remaining amounts.

13 Section 5. That chapter 28-6 be amended by adding thereto a NEW SECTION to read as  
14 follows:

15 Notwithstanding any other provision of law governing the operation of a publicly owned and  
16 operated nursing facility, a publicly owned and operated nursing facility participating under the  
17 provisions of this Act may receive and immediately upon receipt shall remit payments provided  
18 under section 3 and 4 of this Act. No payment is required under this section for any period in  
19 which the use of funds for the purposes of this Act are prohibited due to action by the secretary  
20 of the United States Department of Health and Human Services.

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

23 There is hereby established in the state treasury a fund known as the intergovernmental  
24 transfer fund. The fund shall include revenue received from publicly owned and operated nursing  
25 facilities for remittance to the fund under section 4 of this Act. The department shall administer

1 the fund and shall adopt procedures for participation by publicly owned and operated nursing  
2 facilities. All moneys designated for the fund from whatever source derived shall be deposited  
3 with the state treasurer in the intergovernmental transfer fund. The amounts in the  
4 intergovernmental transfer fund shall be invested pursuant to §§ 4-5-23 and 4-5-26 and the  
5 earnings shall be deposited in the intergovernmental transfer fund.

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

8 Funds appropriated to the department for purposes authorized under § 28-6-1 may be used  
9 for the purposes of making payments pursuant to section 3 of the Act each fiscal year.

10 Section 8. That chapter 28-6 be amended by adding thereto a NEW SECTION to read as  
11 follows:

12 The department may promulgate rules pursuant to chapter 1-26 for the administration of this  
13 Act. The rules may include criteria for establishing, funding, and administering the pool, criteria  
14 for participation in the intergovernmental transfer, penalties for failing to immediately remit the  
15 funds to the department, criteria for the transfer of funds, the establishment of transaction fees,  
16 and other policies to facilitate the administration of the intergovernmental transfer fund or the  
17 funding pool.

18 Section 9. That chapter 28-6 be amended by adding thereto a NEW SECTION to read as  
19 follows:

20 This Act does not create an entitlement to any funds. The department may disburse funds to  
21 the extent funds are available and, within its discretion, to the extent such appropriations are  
22 approved.

1 **BILL HISTORY**

2 1/19/00 First read in Senate and referred to Health and Human Services. S.J. 115

3 2/7/00 Scheduled for Committee hearing on this date.

4 2/7/00 Health and Human Services Do Pass, Passed, AYES 6, NAYS 0. S.J. 337

5 2/8/00 Senate Do Pass, Passed, AYES 34, NAYS 1. S.J. 354

6 2/9/00 First read in House and referred to Health and Human Services. H.J. 549

7 2/18/00 Health and Human Services Hog Housed.

8 2/18/00 Scheduled for Committee hearing on this date.

9 2/18/00 Health and Human Services Do Pass Amended, Passed, AYES 10, NAYS 1. H.J. 743

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

777D0363

## HOUSE STATE AFFAIRS COMMITTEE ENGROSSED NO. **SB141** - 2/22/00

Introduced by: Senators Whiting, Albers, Brosz, Brown (Arnold), Daugaard, Duxbury,  
Flowers, Lawler, and Madden and Representatives Michels, Fischer-Clemens,  
Haley, Hunt, Lucas, Smidt, and Wilson

1 FOR AN ACT ENTITLED, An Act to establish a monitor within the juvenile corrections system  
2 and to provide for certain legislative review and study of the state's correctional system.

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

4 Section 1. That chapter 26-11A be amended by adding thereto a NEW SECTION to read  
5 as follows:

6 Terms used in this chapter mean:

7 (1) "Abuse," any act or failure to act by an employee of a juvenile corrections facility or  
8 by a contract person or entity providing services to a juvenile corrections facility,  
9 which act was performed or was failed to be performed, knowingly, recklessly, or  
10 intentionally, and which caused, or may have caused, injury or death to an individual  
11 in the custody or care of a juvenile corrections facility;

12 (2) "Monitor," the person or entity designated by the Governor to protect the legal rights  
13 of individuals in the custody or care of juvenile corrections facilities;

14 (3) "Juvenile corrections facility," all juvenile correctional facilities established and  
15 maintained in accordance with § 26-11A-1;

- 1       (4) "Individual in the custody or care of a juvenile corrections facility," an individual who:
- 2           (a) Is in the process of being admitted to a juvenile corrections facility, including
- 3                 an individual who is being transported to such a facility; or
- 4           (b) Is involuntarily confined in a juvenile corrections facility;
- 5       (5) "Neglect," a negligent act or omission by any individual responsible for providing
- 6           custody, care, or services in a juvenile corrections facility which caused or may have
- 7           caused injury or death to an individual in the care or custody of a juvenile corrections
- 8           facility or which placed such individual at undue risk of injury or death;
- 9       (6) "Records," reports prepared or received by any staff of a juvenile corrections facility,
- 10           or reports prepared by an entity or staff person charged with investigating reports of
- 11           incidents of abuse or neglect, injury or death occurring at such facility that describes
- 12           incidents of abuse, neglect, injury, or death occurring at such facility and the steps
- 13           taken to investigate such incident.

14       Section 2. The Governor shall designate a person or entity to serve as the monitor and whose

15       primary responsibility is to protect the rights of individuals in the custody or care of juvenile

16       corrections facilities. Such person or entity shall be independent of the Department of

17       Corrections and shall be administered by the Department of Human Services, office of the

18       secretary.

19       Section 3. Any allegation of abuse and neglect of individuals within the juvenile corrections

20       facilities received by the Office of the Governor, the Department of Corrections, or other

21       agencies of the executive branch shall be promptly reported in writing to the monitor.

22       Section 4. The monitor created in section 2 of this Act may:

- 23       (1) Investigate incidents of abuse or neglect of such individuals within the juvenile
- 24           corrections facilities, if the incidents are reported to the monitor or if there is
- 25           reasonable suspicion to believe that the incidents occurred;

- 1       (2)    Access any individual in the custody or care of juvenile corrections facilities and any  
2            employee in the employ of the State of South Dakota or any of its political  
3            subdivisions;
- 4       (3)    Access any records of or relating to any individual in the custody or care of juvenile  
5            facilities;
- 6       (4)    Provide an annual report to the Governor, the Legislature, the Corrections  
7            Commission established by § 1-15-1.13, the secretary of the Department of Human  
8            Services, and the secretary of the Department of Corrections. The report shall contain  
9            the activities of the monitor for the fiscal year immediately prior to the report.  
10           Activities shall reflect the number of referrals to the monitor, the number of  
11           investigations completed, results of the investigations, corrective actions taken, and  
12           a summary of other activities performed by the monitor;
- 13       (5)    Provide training and assistance to employees of the Department of Corrections in  
14            areas within the scope of the monitor's position.
- 15       (6)    Review Department of Corrections' policies dealing with juvenile's rights to ensure  
16            compliance with federal and state laws, rules, and policy.

17       Section 5. It shall be the responsibility of the monitor to report immediately, in writing, any  
18       findings of abuse or neglect in a juvenile corrections facility to the secretary of the Department  
19       of Corrections, the Government Operations and Audit Committee created in § 2-6-2, and the  
20       Governor, and to state in the report the facts found by the monitor and the names of any  
21       individuals who perpetrated the abuse or neglect.

22       Section 6. The Department of Corrections or such other executive branch agency as the  
23       Governor may direct shall, on or before December 1, 2000, submit to the Corrections Committee  
24       of the Legislature a report and recommendation regarding the desirability and feasibility of the  
25       Department of Corrections seeking American Correctional Association accreditation of all

1 juvenile corrections facilities under the direction of the Governor.

2 Section 7. For purposes of any audit, report, evaluation, or public testimony that may be  
3 permitted or required under this Act, no disclosure of the identity of any individual shall be  
4 required where otherwise prohibited by law.

5 Section 8. A person who knowingly hinders the lawful actions of the monitor is guilty of a  
6 Class 1 misdemeanor.

7 Section 9. No state agency nor any individual acting for a state agency may take any adverse  
8 action against an individual in retaliation because the individual cooperated with or provided  
9 information to the monitor. A violation of this section is a Class 1 misdemeanor.

10 Section 10. The identity of the juvenile and of any person or agency making a report to the  
11 monitor shall be kept confidential.

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

13 2-6-2. There shall be appointed at each regular session of the Legislature a government  
14 operations and audit committee of six, consisting of three members of the Senate appointed by  
15 the president pro tempore of the Senate and three members of the house appointed by the  
16 speaker of the house, for the purpose of inquiry and review of any phase of the operations and  
17 the fiscal affairs of any department, institution, board, or agency of the state, to review any  
18 findings of abuse or neglect in a juvenile corrections facility, to make a continuing study of the  
19 operation of the state's correctional system, and to make a detailed report to the Senate and  
20 House of Representatives and submit a copy of its report to the appropriation committee of each  
21 house of the Legislature at the next succeeding session of the Legislature or any special session  
22 of the Legislature upon request of the body.

23 The Department of Legislative Audit shall provide assistance, including clerical help, to the  
24 committee upon request.

1 **BILL HISTORY**

2 1/19/00 First read in Senate and referred to Judiciary. S.J. 119

3 1/20/00 Senate Referred to State Affairs. S.J. 131

4 2/6/00 Scheduled for Committee hearing on this date.

5 2/7/00 Scheduled for Committee hearing on this date.

6 2/7/00 Deferred by Chair.

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

8 2/9/00 State Affairs Do Pass Amended, Passed, AYES 9, NAYS 0. S.J. 369

9 2/10/00 Motion to Amend, Passed. S.J. 423

10 2/10/00 Motion to Amend, Passed. S.J. 423

11 2/10/00 Senate Do Pass Amended, Passed, AYES 29, NAYS 5. S.J. 423

12 2/11/00 First read in House and referred to State Affairs. H.J. 609

13 2/16/00 Scheduled for Committee hearing on this date.

14 2/16/00 State Affairs Do Pass Amended, Failed, AYES 6, NAYS 7.

15 2/16/00 State Affairs Deferred to another day, AYES 7, NAYS 6.

16 2/18/00 Scheduled for Committee hearing on this date.

17 2/18/00 State Affairs Do Pass Amended, Passed, AYES 13, NAYS 0. H.J. 746

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

660D0178

## HOUSE EDUCATION COMMITTEE ENGROSSED NO. **SB164** - 2/16/00

Introduced by: Senators Reedy, Brosz, and Kloucek and Representatives Lucas, Chicoine, Fischer-Clemens, Kooistra, McCoy, McIntyre, Patterson, and Wilson

1 FOR AN ACT ENTITLED, An Act to establish qualifications for substitute teachers.

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

3 Section 1. That chapter 13-43 be amended by adding thereto a NEW SECTION to read as  
4 follows:

5 Any person who is employed as a substitute teacher in any school in which teachers are  
6 required to be certified shall be at least a high school graduate, shall be at least nineteen years  
7 of age, and shall complete an orientation program that includes, but is not limited to the  
8 following areas:

- 9 (1) Classroom management;  
10 (2) Student safety and health; and  
11 (3) School district policies and procedures.

12 The school administration is responsible for supervision of the substitute teacher and for  
13 providing any testing or training necessary to meet the requirements of subdivisions (1) to (3),  
14 inclusive, of this section. No person may be employed as a substitute teacher at such a school  
15 unless the person has signed a statement that the person has not during the previous five years  
16 been convicted of any crime involving moral turpitude, including traffic in narcotics.

1 **BILL HISTORY**

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

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

4 1/27/00 Education Do Pass Amended, Passed, AYES 7, NAYS 0. S.J. 218

5 1/31/00 Senate Do Pass Amended, Passed, AYES 20, NAYS 11. S.J. 260

6 2/1/00 First read in House and referred to Education. H.J. 340

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

8 2/10/00 Deferred by Chair.

9 2/15/00 Scheduled for Committee hearing on this date.

10 2/15/00 Education Do Pass Amended, Passed, AYES 8, NAYS 5. H.J. 664

# 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

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

136D0596

HOUSE APPROPRIATIONS COMMITTEE

ENGROSSED NO. **SB196** - 2/22/00

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

Introduced by: Senator Frederick

1 FOR AN ACT ENTITLED, An Act to amend the General Appropriations Act for fiscal year  
2 2000 and to create a tobacco prevention and cessation program and trust fund and to make  
3 an appropriation therefor.

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

5 Section 1. That certain programs in chapter 19 of the 1999 Session Laws be amended to read  
6 as follows:

7 DEPARTMENT OF EXECUTIVE MANAGEMENT

8 South Dakota Public Broadcasting

9 Operating Expenses, delete "\$1,479,923" and insert "\$4,479,923".

10 State Radio

11 Operating Expenses, delete "\$576,330" and insert "\$4,576,330".

12 DEPARTMENT OF TOURISM

13 Tourism

14 Operating Expenses, delete the first "\$0" and insert "\$500,000".

15 DEPARTMENT OF HUMAN SERVICES

16 Administration, Secretary of Human Services

1           Operating Expenses, delete "\$126,355" and insert "\$1,126,355".

2   **BOARD OF REGENTS**

3       **Regents Central Office**

4           Operating expenses, delete "\$2,446,360" and insert "\$7,446,360".

5   Adjust all totals accordingly.

6       Section 2. Any general funds appropriated by this Act which are unspent at the end of fiscal  
7   year 2000 shall be carried over to fiscal year 2001.

8       Section 3. Section 1 of this Act is effective June 20, 2000.

9       Section 4. The tobacco prevention and reduction trust fund is established in the state  
10   treasury. Interest earned on money in the fund shall be credited to the fund. Any money from  
11   gifts, grants, or other funds may be deposited in the fund. The principal and interest may be  
12   appropriated from the fund. The fund shall be invested according to §§ 4-5-23 and 4-5-26.

13       Section 5. Interest earned on money received from the Master Settlement Agreement signed  
14   November 23, 1998, by the attorneys general of several states and by various tobacco companies  
15   shall be deposited in the tobacco prevention and reduction trust fund. This section is repealed  
16   when three million dollars of interest earnings has been deposited in the tobacco prevention and  
17   reduction trust fund or on July 1, 2001.

18       Section 6. Money in the tobacco prevention and reduction trust fund shall be used for  
19   tobacco use prevention and cessation programs and grants as follows:

- 20       (1)   Community based programs;
- 21       (2)   School based programs;
- 22       (3)   State-wide programs;
- 23       (4)   Cessation programs;
- 24       (5)   Public education and counter marketing;
- 25       (6)   Enforcement of effective tobacco laws;

1 (7) Evaluation of tobacco programs; and

2 (8) Administration and oversight.

3 Section 7. There is created an eleven member Tobacco Prevention and Reduction Trust Fund  
4 Advisory Board. The Governor shall appoint six members to the board, the Speaker of the  
5 House of Representatives shall appoint three members to the board, and the President Pro  
6 Tempore of the Senate shall appoint two members to the board. The terms of the initial  
7 appointments shall be: four members appointed to a one year term, four members appointed to  
8 a two year term, and three members appointed to a three year term. All subsequent appointments  
9 shall be for a three year term. Any member appointed to fill a vacancy other than the natural  
10 expiration of a term shall serve for only the unexpired portion of the term. No member of the  
11 board may be affiliated with the tobacco industry. The board shall meet at least two times per  
12 year.

13 Section 8. The Tobacco Prevention and Reduction Trust Fund Advisory Board, in  
14 collaboration with the Department of Human Services, shall develop and approve a state-wide  
15 strategic plan to prevent and reduce tobacco use. The plan shall set forth short term and long  
16 term goals, adequate benchmarks and standards by which measures of program success under  
17 section 5 of this Act may be appropriately evaluated. The board shall be responsible for  
18 establishing program priorities, criteria for awarding grants, and assessing overall program  
19 performance.

20 Section 9. The Tobacco Prevention and Reduction Trust Fund Advisory Board shall submit  
21 an annual report to the Governor and the Legislature. The annual report shall detail the progress  
22 toward meeting program goals and objectives, including reporting on changes in tobacco  
23 consumption, tobacco use rates and attitudes towards tobacco, especially among children and  
24 other high risk populations.

25 Section 10. There is hereby appropriated from the tobacco prevention and reduction trust

1 fund the sum of three million dollars (\$3,000,000), or so much thereof as may be necessary, to  
2 the Department of Human Services to implement a comprehensive tobacco prevention and  
3 cessation program.

4 Section 11. The secretary of the Department of Human Services shall approve vouchers and  
5 the state auditor shall draw warrants to pay expenditures authorized by section 9 of this Act.

6 Section 12. Any amounts appropriated in section 9 of this Act not lawfully expended or  
7 obligated by June 30, 2001, shall revert in accordance with § 4-8-21.

1 **BILL HISTORY**

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

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

4 2/2/00 Deferred by Chair.

5 2/8/00 Appropriations Hog Housed.

6 2/8/00 Scheduled for Committee hearing on this date.

7 2/8/00 Appropriations Do Pass Amended, Passed, AYES 9, NAYS 1. S.J. 346

8 2/10/00 Senate Do Pass Amended, Passed, AYES 33, NAYS 2. S.J. 425

9 2/11/00 First read in House and referred to Appropriations. H.J. 609

10 2/18/00 Scheduled for Committee hearing on this date.

11 2/18/00 Appropriations Deferred to another day.

12 2/22/00 Scheduled for Committee hearing on this date.

13 2/22/00 Appropriations Do Pass Amended, Passed, AYES 7, NAYS 3.

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

400D0790

## HOUSE STATE AFFAIRS COMMITTEE ENGROSSED NO. **SB199** - 2/15/00

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

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

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

4 Section 1. That chapter 10-12 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 Notwithstanding the provisions of § 10-12-42, the levy for taxes payable in 2001 shall be as  
7 follows:

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

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

1 the maximum levies;

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

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

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

1 **BILL HISTORY**

2 1/24/00 First read in Senate and referred to State Affairs. S.J. 170

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

4 2/4/00 State Affairs Do Pass Amended, Passed, AYES 9, NAYS 0. S.J. 315

5 2/8/00 Senate Do Pass Amended, Passed, AYES 35, NAYS 0. S.J. 355

6 2/9/00 First read in House and referred to State Affairs. H.J. 550

7 2/14/00 Scheduled for Committee hearing on this date.

8 2/14/00 State Affairs Do Pass Amended, Passed, AYES 11, NAYS 2. H.J. 628