

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

285D0028

SENATE ENGROSSED NO. **HB1005** - 2/23/00

Introduced by: Representatives Lintz, Chicoine, Engbrecht, Juhnke, McNenny, Sutton (Duane), Waltman, and Young and Senators Symens, Madden, Paisley, and Vitter at the request of the Interim Tax Assessment Committee

1 FOR AN ACT ENTITLED, An Act to conduct a pilot study on agricultural income value, to
2 create a task force, to appropriate money for a pilot study, and to declare an emergency.

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

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

6 Notwithstanding the provisions of § 10-6-33, agricultural land shall be assessed based on its
7 agricultural income value. The agricultural income value of agricultural land shall be determined
8 on the basis of productivity and the annual earnings capacity of the agricultural land if the land
9 is used for agricultural purposes. The productivity of land and its annual earning capacity shall
10 be based on data collected and analyzed pursuant to sections 2 to 5, inclusive, of this Act.

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

13 Agricultural income value is defined as the capitalized average annual earning capacity. The
14 annual earning capacity shall be determined from share rent and, reduced by the estimated
15 property taxes and marketing expenses incurred by agricultural land owners renting agricultural
16 land on a share basis. The capacity of the cropland to produce agricultural products shall be

1 based on average yields for crops or plants under natural conditions. The capacity of
2 noncropland to produce agricultural products shall be based on average acres per animal unit
3 under natural conditions. For the purpose of this section, annual earning capacity for:

- 4 (1) Cropland is thirty percent of the annual gross income produced;
- 5 (2) Noncropland is twenty-five percent of the annual gross income capacity of the land
6 based upon the animal carrying capacity of the land.

7 The economics department of South Dakota State University shall annually compute the
8 average annual earning capacity of cropland and noncropland for each county using the data base
9 defined in section 4 of this Act. The average annual earning capacity shall be capitalized at a rate
10 of six percent to determine the capitalized average annual earning capacity. The economics
11 department shall annually provide the secretary of revenue this information by June first.

12 Section 3. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as
13 follows:

14 Before July first, the secretary of revenue shall annually provide each director of equalization
15 the agricultural income value for each county as computed pursuant to section 2 of this Act.
16 Before November first the director of equalization shall annually determine the assessed value
17 of agricultural land. Agricultural land shall be assessed based on its agricultural income value and
18 adjusted by the following factors:

- 19 (1) The capacity of the land to produce agricultural products as specified in section 2 of
20 this Act; and
- 21 (2) The location, size, soil survey statistics, terrain, and topographical condition of the
22 land including the climate, accessibility, and surface obstructions which can be
23 documented.

24 Section 4. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as
25 follows:

1 The secretary of revenue shall enter into contracts with South Dakota State University and,
2 if necessary, the South Dakota Agricultural Statistics Service for the purpose of creating a data
3 base to determine the agricultural income value of agricultural land by county. A data base for
4 an identifiable region within a county may be created if the director of equalization shows a need
5 for establishing identifiable regions within a county. The secretary shall collect such data for
6 1993, which will serve as the first year of the data base, and each year thereafter. The data base
7 shall consist of the most recent eight years of data that have been collected and the years
8 representing the highest and lowest agricultural income value shall be discarded from the data
9 base. The data base for the 2002 assessment year shall consist of data from 1993 to 2000,
10 inclusive, and the data base for each assessment year thereafter shall be adjusted accordingly.

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

13 Agricultural land shall be divided by the director of equalization into categories, including
14 cropland and noncropland, so that the categories reflect uses appropriate for the valuation of
15 such land. Each category shall be divided into subclasses based on soil classification standards
16 developed by the United States Department of Agriculture Natural Resources Conservation
17 Service.

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

20 Buildings and structures, other than normally occupied dwellings on agricultural land and
21 automobile garages or portions of buildings used for that purpose, which are used exclusively
22 for agricultural purposes and situated on agricultural land are hereby specifically classified for
23 tax purposes as agricultural property and shall be assessed pursuant to § 10-6-33.

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

1 The agricultural income value for agricultural land as determined pursuant to section 1 of this
2 Act represents eighty-five percent of the fair market value.

3 Section 8. That § 10-6-1 be amended to read as follows:

4 10-6-1. Terms used in this chapter mean:

5 (1) "Credit," every claim and demand for money or other valuable thing and every annuity
6 or sum of money receivable at stated periods, due or to become due, and all claims
7 and demands secured by deeds or mortgages due or to become due, except for
8 contracts for deed and mortgages, in which case the term means only the payment
9 received each year under the contract or mortgage;

10 (2) "District," township, municipality, or ward, as the case may be;

11 (3) "Full agricultural land value," the value of agricultural land as determined by the
12 application of this chapter;

13 (4) "Money," gold and silver coin, treasury notes, bank notes, and every deposit which
14 any person owning the same or holding in trust and residing in this state is entitled to
15 withdraw in money on demand;

16 (5) "Tract," "lot," "piece," or "parcel" of real property, or "piece or parcel of land," any
17 contiguous quantity of land in the possession of, owned by, or recorded as, the
18 property of the same claimant, person, or company;

19 (6) "True and full value," for all real property, except agricultural land, the usual cash
20 selling price at the place where the property to which the term is applied shall be at
21 the time of the assessment.

22 Section 9. That § 10-6-33.1 be repealed.

23 ~~10-6-33.1. The true and full value in money of agricultural land, as defined by § 10-6-31,~~
24 ~~which has been in primarily agricultural use for at least five successive years immediately~~
25 ~~preceding the tax year for which assessment is to be made shall be the market value as~~

1 determined for each county through the use of all comparable sales of agricultural land based on
2 consideration of the following factors:

3 ~~— (1) — The capacity of the land to produce agricultural products as defined in § 10-6-33.2;~~
4 ~~and~~

5 ~~— (2) — The soil, terrain, and topographical condition of the property including but not limited~~
6 ~~to capability, the land's use, climate, accessibility, and surface obstructions which can~~
7 ~~be documented through an analysis of land selling prices.~~

8 ~~— The comparable sales that are used shall be evidenced by an instrument recorded with the~~
9 ~~register of deeds of the county in which the land is located, if the date of such instrument and the~~
10 ~~recording date is not more than two years prior to the assessment year.~~

11 Section 10. That § 10-6-33.2 be repealed.

12 ~~— 10-6-33.2. Capacity of land in agricultural use to produce agricultural products shall be based~~
13 ~~on average yields under natural conditions, in the case of land producing crops or plants, and on~~
14 ~~the average "acres per animal unit," in the case of grazing land; said average shall affect each~~
15 ~~operating unit and shall be based on the ten-year period immediately preceding the tax year in~~
16 ~~issue. In determining such capacity to produce, the county director of equalization and/or the~~
17 ~~county board of equalization must take into consideration yields, and/or carrying capacity, as~~
18 ~~determined by the soil conservation service, the agricultural stabilization and conservation~~
19 ~~service, the extension service, federal land bank, and private lending agencies dealing with land~~
20 ~~production capacities.~~

21 Section 11. That § 10-6-33.3 be repealed.

22 ~~— 10-6-33.3. Land or improvement on land within an operating unit which is not used incident~~
23 ~~to an agricultural pursuit shall be separately listed and assessed and the income therefrom shall~~
24 ~~not be used in determining the values for the purposes of §§ 10-6-33.1 and 10-6-33.2.~~

25 Section 12. That § 10-6-33.4 be repealed.

1 ~~10-6-33.4. If agricultural land has been classified pursuant to chapter 10-10, land within these~~
2 ~~classifications and the classifications shall conform to the provisions of §§ 10-6-33.1 to~~
3 ~~10-6-33.3, inclusive.~~

4 Section 13. That § 10-6-33.5 be amended to read as follows:

5 10-6-33.5. The assessment, valuation, equalization, and taxation of school and endowment
6 lands shall be at the same level and on the same basis as lands assessed, valued, and equalized
7 according to §§ ~~10-6-33.1 to 10-6-33.4, inclusive~~ sections 1 to 5, inclusive, of this Act.

8 Section 14. That § 10-6-33.6 be repealed.

9 ~~10-6-33.6. If the median value per acre in an identifiable region within a county deviates by~~
10 ~~more than ten percent from the county average, the county director of equalization may establish~~
11 ~~a separate market value per acre for the land defined by the director of equalization within that~~
12 ~~region.~~

13 Section 15. That § 10-6-33.7 be repealed.

14 ~~10-6-33.7. Agricultural land in each county shall be divided into the eight classes defined by~~
15 ~~the United States Department of Agriculture's soil conservation service as published in its soil~~
16 ~~survey for each county. The county director of equalization shall, based on the agricultural lands~~
17 ~~soil survey classification, determine a value for each soil type. The value for each soil type shall~~
18 ~~be determined from sales of similar land based upon its soil survey classification, and as adjusted~~
19 ~~for the factors contained in subdivision 10-6-33.1(2). The sales used shall be sales of agricultural~~
20 ~~land that are sold for agricultural purposes.~~

21 Section 16. That § 10-6-33.12 be repealed.

22 ~~10-6-33.12. For the purposes of §§ 10-6-33.8 and 10-6-33.9, there shall be a separate~~
23 ~~median sales to assessment ratio and coefficient of dispersion for agricultural and nonagricultural~~
24 ~~real property.~~

25 Section 17. That § 10-6-33.20 be repealed.

1 ~~10-6-33.20. Any agricultural land, as defined in § 10-6-31.3, which is sold in an increment~~
2 ~~of seventy acres or less, may not be used for the purpose of valuing agricultural land. The sale~~
3 ~~of any agricultural land, which is not used for purpose of valuing agricultural property pursuant~~
4 ~~to this section, may not be used in any sales ratio study.~~

5 Section 18. That § 10-11-56.5 be repealed.

6 ~~10-11-56.5. No sale of any land which is classified pursuant to § 10-6-58 may be used in any~~
7 ~~sales ratio study.~~

8 Section 19. That § 10-11-57 be repealed.

9 ~~10-11-57. In order to determine the ratio for agricultural land assessed pursuant to~~
10 ~~§ 10-6-33.1, the secretary of revenue shall compare the assessed valuations on properties used~~
11 ~~for tax purposes in the year sold with the agricultural values of those properties as determined~~
12 ~~under §§ 10-6-33.1 and 10-6-33.2.~~

13 Section 20. That § 10-12-31.1 be amended to read as follows:

14 10-12-31.1. Notwithstanding other provision of law, when applying the levies for school
15 purposes, the county director of equalization of each county shall adjust the level of assessment
16 in that district so that the level of assessment as indicated by the most recent assessment to sales
17 ratio as provided for in § 10-11-55 and the most recent ~~assessment to full agricultural land value~~
18 ~~ratio~~ agricultural income value as provided for in § 10-11-57 section 1 of this Act in that district
19 are equal to eighty-five percent of market or agricultural income value. The Department of
20 Revenue shall provide the director of equalization of each county all of the factors of adjustment
21 necessary for the computations required in this section.

22 Section 21. Sections 1 to 22, inclusive, of this Act are effective for the nine counties listed
23 in section 22 of this Act for the purposes of the pilot study only and not for actual assessment
24 and taxation of individual property. Sections 1 to 22, inclusive, of this Act are not effective to
25 repeal any existing law, nor implement any new law, but are enacted solely for the purpose of

1 conducting the pilot study provided for in section 22 of this Act.

2 Section 22. The secretary of revenue shall conduct a pilot study concerning the use of
3 agricultural income value as a means to value agricultural land. The pilot study shall include an
4 analysis of various capitalization rates and determine the impact of such rates on the total
5 statewide assessed value of agricultural property and its relationship to the total statewide
6 assessed value of all property. The pilot study shall include the counties of Clark, Moody,
7 Turner, Brown, Hyde, Lyman, Corson, Meade, and Custer. The secretary shall, for the purpose
8 of providing information, apply the provisions and procedures provided in this Act to value
9 agricultural land in the selected counties. The secretary shall submit a report detailing the
10 information collected to the Task Force on the Study of Productivity Valuation of Agricultural
11 Land by March 31, 2001. The Governor shall appoint nine members to the Task Force on the
12 Study of Productivity Valuation of Agricultural Land, three of whom shall be members of the
13 Legislature, three of whom shall be either county commissioners or county directors of
14 equalization or any combination thereof, and three members who shall be appointed from the
15 public at large. The task force, after receipt of the pilot study, shall study the effects including
16 the capitalization rate, preventing a tax shift between agricultural and nonagricultural property,
17 and evaluate the procedures used to determine agricultural income values, preventing tax shifts
18 within agricultural property and make recommendations by October 1, 2001, to the Governor
19 and the Seventy-seventh Legislature regarding implementation.

20 Section 23. There is hereby appropriated from the general fund the sum of one hundred
21 thousand dollars (\$100,000), or so much thereof as may be necessary, to the Department of
22 Revenue for the purpose of conducting a pilot study concerning the use of agricultural income
23 value as a means to value agricultural land.

24 Section 24. The secretary of the Department of Revenue shall approve vouchers and the state
25 auditor shall draw warrants to pay expenditures authorized by this Act.

1 Section 25. Any amounts appropriated in this Act not lawfully expended or obligated by
2 June 30, 2002, shall revert in accordance with § 4-8-21.

3 Section 26. Whereas, this Act is necessary for the support of the state government and its
4 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full
5 force and effect from and after its passage and approval.

1 **BILL HISTORY**

2 1/11/00 First read in House and referred to Taxation. H.J. 13

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

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

5 2/3/00 Taxation Do Pass Amended, Passed, AYES 10, NAYS 2. H.J. 402

6 2/7/00 House of Representatives Deferred to another day. H.J. 469

7 2/8/00 House of Representatives Deferred to another day. H.J. 489

8 2/10/00 House of Representatives Deferred to another day, AYES 58, NAYS 9. H.J. 594

9 2/11/00 Motion to Amend, Passed. H.J. 615

10 2/11/00 House of Representatives Do Pass Amended, Passed, AYES 53, NAYS 4. H.J. 616

11 2/11/00 House of Representatives Title Amended Passed. H.J. 617

12 2/14/00 First read in Senate and referred to Taxation. S.J. 458

13 2/18/00 Scheduled for Committee hearing on this date.

14 2/18/00 Taxation Do Pass Amended, Passed, AYES 8, NAYS 0. S.J. 569

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

995D0218

SENATE APPROPRIATIONS COMMITTEE

ENGROSSED NO. **HB1056** - 2/23/00

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

Introduced by: Representatives Kooistra, Cerny, Davis, Fischer-Clemens, Haley, Kazmerzak, Lockner, Lucas, McCoy, McIntyre, Michels, Munson (Donald), Patterson, Volesky, and Wilson and Senators Valandra, Dunn (Rebecca), Moore, and Symens

1 FOR AN ACT ENTITLED, An Act to establish a combination work and education activity for
2 recipients under the state's temporary assistance for needy families program.

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

4 Section 1. That chapter 28-7A be amended by adding thereto a NEW SECTION to read as
5 follows:

6 The Department of Social Services shall implement a combination work and education
7 activity for recipients of the temporary assistance for needy families program who qualify under
8 the provisions of this Act. This combination work and education activity is limited to twenty-four
9 months and must be directed towards a goal of employment that leads to self-sufficiency.

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

12 The education component of the combination work and education activity must meet the
13 following criteria:

14 (1) Must be an undergraduate postsecondary educational program at an institution

1 accredited by the North Central Association of Colleges and Secondary Schools;

2 (2) Must result in a marketable skill directly related to employment;

3 (3) Must be related to the available employment demands and opportunities in the
4 recipient's labor market.

5 Section 3. That chapter 28-7A be amended by adding thereto a NEW SECTION to read as
6 follows:

7 The recipient of the temporary assistance for needy families program must meet the following
8 criteria to be approved for the work and education activity under the provisions of this Act:

9 (1) Must be enrolled in a postsecondary education program for a minimum of twelve
10 credit hours. Credit hours to meet the requirement of this subdivision may not exceed
11 fifteen;

12 (2) Must meet the admission requirements established by the institution;

13 (3) Must maintain a 2.5 grade point average; and

14 (4) Must have a combination of work hours and classroom hours that meet the work
15 participation requirements of the state's temporary assistance for needy families
16 program.

17 Section 4. That chapter 28-7A be amended by adding thereto a NEW SECTION to read as
18 follows:

19 The Department of Social Services may limit the number of participants in the work and
20 education activity to meet the requirements under the state's temporary assistance for needy
21 families program.

22 Section 5. That chapter 28-7A be amended by adding thereto a NEW SECTION to read as
23 follows:

24 The department may promulgate rules pursuant to chapter 1-26 for the administration of this
25 Act. Rules may include the following:

- 1 (1) Employability assessment, work activities, and supportive services;
- 2
- 3 (2) Conditions of continued eligibility, eligibility time limits, eligibility recertification
- 4 periods, and exemptions;
- 5 (3) Program participation requirements, criteria for disqualification, and good cause
- 6 exemptions;
- 7 (4) Limits on the number of participants; and
- 8 (5) Such other rules and standards of operation and administration within the mandate of
- 9 this Act as may be necessary or desirable to qualify for federal financial participation.

1 **BILL HISTORY**

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

3 1/21/00 Deferred by Chair.

4 1/21/00 Scheduled for Committee hearing on this date.

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

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

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

8 2/7/00 State Affairs Do Pass Amended, Passed, AYES 7, NAYS 6. H.J. 474

9 2/8/00 State Affairs Hog Housed.

10 2/10/00 House of Representatives Do Pass Amended, Passed, AYES 43, NAYS 25. H.J. 588

11 2/11/00 First read in Senate and referred to Appropriations. S.J. 442

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

13 2/17/00 Deferred by Chair.

14 2/18/00 Deferred by Chair.

15 2/18/00 Scheduled for Committee hearing on this date.

16 2/22/00 Appropriations Hog Housed.

17 2/22/00 Scheduled for Committee hearing on this date.

18 2/22/00 Appropriations Do Pass Amended, Passed, AYES 9, NAYS 1. S.J. 584

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

731D0422

SENATE APPROPRIATIONS COMMITTEE

ENGROSSED NO. **HB1057** - 2/23/00

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

Introduced by: Representatives Munson (Donald), Broderick, Clark, Kooistra, Michels, Roe, Smidt, Sutton (Duane), and Volesky and Senators Reedy, Duxbury, Ham, Kleven, Madden, and Moore

1 FOR AN ACT ENTITLED, An Act to create the South Dakota education savings plan.

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

3 Section 1. Terms used in this Act mean:

4 (1) "Account," an individual trust account or savings account established pursuant to this
5 Act;

6 (2) "Account owner," the person designated at the time an account is opened as having
7 the right to withdraw moneys from the account before the account is disbursed to or
8 for the benefit of the designated beneficiary;

9 (3) "Department," the Department of Education and Cultural Affairs;

10 (4) "Designated beneficiary" or "beneficiary," with respect to an account, the person
11 designated at the time the account is opened, or the person who replaces a designated
12 beneficiary, as the person whose education expenses are expected to be paid from the
13 account;

14 (5) "Eligible education institution," as that term is defined in 26 U.S.C. sec. 135(c)(3), as
15 amended to January 1, 2000;

- 1 (6) "Financial institution," any South Dakota state agency not prohibited by state or
2 federal law from serving in the capacity of a financial entity as intended by the terms
3 of this Act, or any state bank, state trust company, industrial bank, savings and loan
4 association, credit union chartered by the State of South Dakota, national bank,
5 broker-dealer, mutual fund, insurance company, or other similar financial entity
6 qualified to do business in the State of South Dakota;
- 7 (7) "Internal revenue code," the federal "Internal Revenue Code of 1986", as amended
8 to January 1, 2000;
- 9 (8) "Manager," a financial institution under contract with the department to serve as
10 administrator of the program and recipient of contributions on behalf of the program;
- 11 (9) "Member of the family," as that term is defined in 26 U.S.C. sec. 529(e)(2), as
12 amended to January 1, 2000;
- 13 (10) "Nonqualified withdrawal," a withdrawal from an account other than a qualified
14 withdrawal or a rollover or change of designated beneficiary;
- 15 (11) "Program," the college savings program established pursuant to this Act;
- 16 (12) "Qualified higher education expenses," as that term is defined in 26 U.S.C. sec.
17 529(e)(3), as amended to January 1, 2000; and
- 18 (13) "Qualified withdrawal," a withdrawal from an account to pay the qualified higher
19 education expenses of the designated beneficiary of the account, a withdrawal made
20 on account of the death or disability of the designated beneficiary, or a withdrawal
21 made on account of a scholarship, but only if the withdrawal is made in accordance
22 with this Act.

23 Section 2. The Department of Education and Cultural Affairs shall promulgate rules pursuant
24 to chapter 1-26 to design, develop, and implement the college savings program and the policies
25 related to the program consistent with this Act. The department shall approve any plan for

1 promoting the program developed by a manager, as provided in subdivision (6) of section 10 of
2 this Act. The rules shall interpret the provisions of this Act broadly and shall include policies and
3 procedures:

4 (1) Governing the withdrawal of funds, including provisions that will enable the
5 department or the manager to determine whether a withdrawal is a nonqualified
6 withdrawal or a qualified withdrawal;

7 (2) To enable account owners and beneficiaries and the program to obtain or maintain
8 federal income tax benefits or treatment provided by section 529 of the Internal
9 Revenue Code and exemptions under federal securities laws;

10 (3) Governing the charging and collecting of administrative fees and service charges as
11 provided in this Act;

12 (4) Governing the changing of designated beneficiaries.

13 Section 3. No contributions may be made on behalf of a designated beneficiary in excess of
14 those necessary to pay the qualified higher education expenses of the designated beneficiary.

15 Section 4. Every contract, application, deposit slip, or other similar document that is used
16 in connection with a contribution to an account shall clearly indicate that the account is not
17 insured by this state and neither the principal deposited nor the investment return is guaranteed
18 by the state.

19 Section 5. The Department of Education and Cultural Affairs may:

20 (1) Retain the professional services of accountants, auditors, consultants, and other
21 experts necessary to implement and develop the program;

22 (2) Seek rulings and other guidance from the United States Department of the Treasury,
23 the Internal Revenue Service, and the Securities and Exchange Commission relating
24 to the program as is necessary for proper implementation and development of the
25 program;

1 (3) Charge and collect administrative fees and service charges in connection with any
2 agreement, contract, or transaction relating to the program in amounts not exceeding
3 the cost of establishing and maintaining the program; and

4 (4) Approve the application and review, for purposes of compliance with applicable laws
5 and regulations, of any informational materials utilized by the manager to be furnished
6 to persons who desire to participate in the program established in this Act.

7 Section 6. The Department of Education and Cultural Affairs may contract with one or more
8 financial institutions to act as managers for the investment of contributions deposited in the
9 accounts or otherwise in stocks, bonds, mutual funds, and other such investments as deemed
10 appropriate by the department. In so doing, the department is bound by fiduciary duty and shall
11 ensure that investments by the managers are made with judgment and care which persons of
12 prudence, discretion, and intelligence exercise in the management of the property of another, not
13 in regard to speculation but in regard to the permanent disposition of funds, considering the
14 probable income as well as the probable safety of capital. The funds contributed to the accounts
15 established by account owners pursuant to this Act are held in trust by the department and the
16 manager for the sole benefit of the account owner and beneficiary. These contributions are not
17 subject to any limitations on the investment or spending of public funds.

18 Section 7. The Department of Education and Cultural Affairs shall implement the program
19 through the use of one or more financial institutions to act as managers. Under the program,
20 potential account owners may establish accounts through the program at the financial institution.
21 The department shall solicit proposals from financial institutions to act as the recipients of
22 contributions and managers.

23 Section 8. The department shall select from among bidding financial institutions one or more
24 financial institutions that demonstrate the most advantageous combination to account owners and
25 beneficiaries, based on the following factors:

- 1 (1) Financial stability and integrity;
- 2 (2) The ability of the financial institution, directly or through a subcontract, to satisfy
3 record-keeping and reporting requirements;
- 4 (3) The financial institution's plan for promoting the program and the investment that the
5 financial institution is willing to make in order to promote the program;
- 6 (4) The historic ability of the investment instruments utilized by the financial institution
7 to track the estimated costs of higher education as calculated by the United States
8 Department of Education;
- 9 (5) The fees, if any, proposed to be charged to account owners for maintaining accounts;
- 10 (6) The minimum initial cash contribution and minimum contributions that the financial
11 institution will require, and the willingness of the financial institution to accept
12 contributions through payroll deduction plans or systematic deposit plans; and
- 13 (7) Any other benefits to the state or to its residents included in the proposal, including
14 an account opening fee payable to the department by the account owner.

15 Section 9. The department may select more than one financial institution for the program if
16 the United States Internal Revenue Service has provided guidance that giving a contributor a
17 choice of two or more financial institutions will not cause the program to fail to qualify for
18 favorable tax treatment under section 529 of the Internal Revenue Code, and the department
19 concludes that the choice of two or more financial institutions is in the best interest of account
20 owners and beneficiaries and will not interfere with the promotion of the program.

21 Section 10. A manager shall:

- 22 (1) Take all actions required to keep the program in compliance with the requirements of
23 this Act and to ensure that the program is treated as a qualified state tuition plan
24 under section 529 of the Internal Revenue Code, and to ensure that the program is
25 exempt from registration under the federal securities law;

- 1 (2) Keep adequate and separate records of each account and provide the department with
2 the information necessary to prepare the reports required by section 529 of the
3 Internal Revenue Code, or file these reports on behalf of the department;
- 4 (3) Compile and total information contained in statements required to be prepared
5 pursuant to section 21 of this Act and provide these compilations to the department;
- 6 (4) Provide representatives of the department access to the books and records of the
7 manager to the extent needed to determine compliance with the contract;
- 8 (5) Hold all accounts in trust for the sole benefit of the account owner and beneficiary on
9 behalf of the program, acting in a fiduciary capacity and making investments with
10 judgment, care, and prudence; and
- 11 (6) Develop a plan to promote the program and, after approval of the plan by the
12 department as provided in section 2 of this Act, promote the program in accordance
13 with the plan.

14 Section 11. Any contract executed between the department and a financial institution
15 pursuant to this Act shall be for a term of at least five years and is renewable.

16 Section 12. If a contract executed between the department and a financial institution pursuant
17 to this Act is not renewed, all of the following conditions apply at the end of the term of the
18 nonrenewed contract, if these conditions do not disqualify the program as a qualified state tuition
19 plan under section 529 of the Internal Revenue Code:

- 20 (1) The department shall continue to maintain the program at the financial institution;
- 21 (2) Accounts previously established at the financial institution may not be terminated,
22 except as provided in subdivision (5) of this section or as provided in section 13 of
23 this Act;
- 24 (3) Additional contributions may be made to the accounts;
- 25 (4) No new accounts may be placed with that financial institution; and

1 (5) If the department determines that continuing the accounts at the financial institution
2 is not in the best interest of the account owners or beneficiaries, the accounts may be
3 transferred to another financial institution under contract with the department.

4 Section 13. The department may terminate a contract with a financial institution at any time.
5 If a contract is terminated pursuant to this section, the department shall take custody of accounts
6 held at that financial institution and shall promptly transfer the accounts to another financial
7 institution that is selected as a manager and into investment instruments as similar to the original
8 investments as possible pursuant to the guidelines established in section 18 of this Act.

9 Section 14. The program shall be operated through the use of accounts. Any person who
10 desires to save for the qualified higher education expenses of a potential beneficiary may open
11 an account by satisfying each of the following requirements:

- 12 (1) Completing an application in the form prescribed by the financial institution and
13 approved by the department. The application shall include the following information:
- 14 (a) The name, address, and social security number or employer identification
15 number of any person that contributes to the account;
 - 16 (b) The name, address, and social security number or employer identification
17 number of the account owner;
 - 18 (c) The name, address, social security number or employer identification number,
19 and date of birth of the designated beneficiary;
 - 20 (d) A certification from the contributor that states that to the best of the
21 contributor's knowledge, the account balance for the designated beneficiary in
22 all qualified state tuition programs, as defined in section 529 of the Internal
23 Revenue Code, does not exceed the greater of either a maximum college
24 savings amount established by the department or the cost in current dollars of
25 qualified higher education expenses that the contributor reasonably anticipates

1 the designated beneficiary will incur; and

2 (e) Any other information that the department may deem necessary; and

3 (2) Making the minimum contribution required by the financial institution to open an
4 account.

5 Section 15. Any person may make contributions to an account, consistent with the terms
6 established by the department, after the account is opened. Contributions to accounts may be
7 made in cash only. Account owners may withdraw all or part of the balance from an account
8 upon giving sixty days' notice, or upon such shorter period as may be authorized by the
9 department in rules promulgated by the department pursuant to chapter 1-26, including any
10 applicable fees and penalties. An account owner may change the designated beneficiary of an
11 account to an individual who is a member of the family or former designated beneficiary in
12 accordance with procedures established by the department in rules promulgated pursuant to
13 chapter 1-26. At the direction of the account owner, all or a portion of an account may be
14 transferred to another account if the designated beneficiary of the transferee account is a member
15 of the family of the designated beneficiary of the transferor account. Changes in designated
16 beneficiaries and rollovers under this section are not permitted if the changes or rollovers would
17 violate rules related to excess contributions or rules related to investment choice.

18 Section 16. In the case of any nonqualified withdrawal from an account, an amount that
19 would constitute more than a de minimis penalty, as determined by the department in accordance
20 with section 529 of the Internal Revenue Code, shall be withheld as a penalty from the amount
21 withdrawn or from funds remaining in the account and paid to the department for use in
22 operating the program and for state student financial aid. If an account owner makes a
23 nonqualified withdrawal and no penalty amount is withheld, or if the amount withheld is less than
24 the amount required to be withheld pursuant to this section for nonqualified withdrawals, the
25 account owner shall pay the unpaid portion of the penalty to the department on or before April

1 fifteenth of the following tax year.

2 Section 17. Each account shall be accounted for separately from all other accounts under the
3 program. Separate records and accounting shall be maintained for each account for each
4 designated beneficiary. If prohibited by federal law, no contributor to, account owner of, or
5 designated beneficiary of any account may direct the investment of any contribution to an
6 account or the earnings from the account.

7 Section 18. If the department terminates the contract of a financial institution to hold
8 accounts and accounts are moved from that financial institution to another financial institution,
9 the department shall select the financial institution to which the balances of the accounts are
10 moved.

11 Section 19. Neither an account owner nor a designated beneficiary may use an interest in an
12 account as a security for a loan. Any pledge of an interest in an account is of no force and effect.
13 An account created pursuant to this Act may not be used to satisfy creditors and is exempt from
14 judgment lien and from all mesne or final process from any court.

15 Section 20. If there is any distribution from an account to any person or for the benefit of any
16 person during the calendar year, the distribution shall be reported to the United States Internal
17 Revenue Service and to the account owner and the designated beneficiary to the extent required
18 by federal law.

19 Section 21. The manager shall provide statements to each account owner at least once each
20 year, within thirty-one days after the end of the calendar year. The statement shall identify the
21 contributions made during the preceding reporting period, the total contributions made through
22 the end of the reporting period, the value of the account as of the end of the reporting period,
23 withdrawals made during the reporting period, and any other matters that the department
24 requires to be reported to the account owner. Statements and information returns relating to
25 accounts shall be prepared and filed to the extent required by federal or state tax law.

1 Section 22. Nothing in this Act:

- 2 (1) Gives any designated beneficiary any rights or legal interest with respect to an account
3 unless the designated beneficiary is the account owner;
- 4 (2) Guarantees that a designated beneficiary will be admitted to an education institution
5 or be allowed to continue enrollment at or graduate from an education institution;
- 6 (3) Establishes state residency for a beneficiary merely because of the designation as a
7 designated beneficiary; or
- 8 (4) Guarantees that amounts saved pursuant to the program will be sufficient to cover the
9 qualified higher education expenses of a designated beneficiary.

10 Section 23. Nothing in this Act establishes any obligation of the State of South Dakota or
11 any agency or instrumentality of the State of South Dakota to guarantee for the benefit of any
12 owner, contributor to an account, or designated beneficiary any of the following:

- 13 (1) The return of any amounts contributed to an account;
- 14 (2) The rate of interest or other return on any account;
- 15 (3) The payment of interest or other return on any account; or
- 16 (4) Tuition rates or the cost of related education expenditures.

17 Section 24. Nothing in this Act indicates that any account is insured by the State of South
18 Dakota or that the principal deposited or investment return is guaranteed by the State of South
19 Dakota.

20 Section 25. Both resident and nonresident account owners and designated beneficiaries are
21 eligible to participate in and benefit from the college savings program.

22 Section 26. That § 13-55E-1 be repealed.

23 ~~13-55E-1. Terms used in this chapter mean:~~

24 ~~(1) "Advance payment contract," a contract entered into by the executive director and a~~
25 ~~purchaser pursuant to this chapter to provide for the higher education of a beneficiary;~~

1 ~~(2) "Beneficiary," the person designated within the advance payment contract to receive~~
2 ~~tuition, room and board, or tuition only at a state-supported institution of higher~~
3 ~~education;~~

4 ~~(3) "Executive director," the executive director of the Board of Regents;~~

5 ~~(4) "Institution of higher education," any state-supported university;~~

6 ~~(5) "Purchaser," any person obligated to make an advance payment of tuition, room and~~
7 ~~board, or tuition only costs on behalf of a beneficiary pursuant to an advance payment~~
8 ~~contract;~~

9 ~~(6) "Room and board costs," the amount assessed for lodging and regularly scheduled~~
10 ~~meals provided to students pursuant to a contract for room and board with an~~
11 ~~institution of higher education;~~

12 ~~(7) "Tuition costs," the amount assessed for full-time enrollment at an institution of~~
13 ~~higher education including mandatory fees imposed upon all full-time students as a~~
14 ~~condition of enrollment.~~

15 Section 27. That §§ 13-55E-2 to 13-55E-13, inclusive, be repealed.

1 **BILL HISTORY**

- 2 1/14/00 First read in House and referred to State Affairs. H.J. 45
- 3 1/19/00 Scheduled for Committee hearing on this date.
- 4 1/19/00 Deferred by Chair.
- 5 1/21/00 Scheduled for Committee hearing on this date.
- 6 1/24/00 Scheduled for Committee hearing on this date.
- 7 1/26/00 Scheduled for Committee hearing on this date.
- 8 1/28/00 Scheduled for Committee hearing on this date.
- 9 1/31/00 Scheduled for Committee hearing on this date.
- 10 2/2/00 Scheduled for Committee hearing on this date.
- 11 2/7/00 Scheduled for Committee hearing on this date.
- 12 2/7/00 State Affairs Do Pass Amended, Passed, AYES 8, NAYS 5. H.J. 476
- 13 2/10/00 Motion to Amend, Passed. H.J. 569
- 14 2/10/00 House of Representatives Do Pass Amended, Passed, AYES 54, NAYS 12. H.J. 570
- 15 2/10/00 First read in Senate and referred to Appropriations. S.J. 426
- 16 2/13/00 Scheduled for Committee hearing on this date.
- 17 2/14/00 Scheduled for Committee hearing on this date.
- 18 2/16/00 Scheduled for Committee hearing on this date.
- 19 2/16/00 Deferred by Chair.
- 20 2/17/00 Scheduled for Committee hearing on this date.
- 21 2/17/00 Deferred by Chair.
- 22 2/18/00 Scheduled for Committee hearing on this date.
- 23 2/18/00 Deferred by Chair.
- 24 2/22/00 Appropriations Hog Housed.
- 25 2/22/00 Scheduled for Committee hearing on this date.

1 2/22/00 Appropriations Do Pass Amended, Passed, AYES 7, NAYS 1. S.J. 586

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

400D0668

SENATE TRANSPORTATION COMMITTEE

ENGROSSED NO. **HB1206** - 2/23/00

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

Introduced by: Representatives Broderick, Apa, Duniphan, and Michels and Senators Shoener and Vitter

1 FOR AN ACT ENTITLED, An Act to repeal revisions to certain municipal special assessment

2 provisions.

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

4 Section 1. The amended provisions of HB 1074, previously passed by the Seventy-Fifth

5 Session of the South Dakota Legislative Assembly are hereby repealed.

1 **BILL HISTORY**

2 1/19/00 First read in House and referred to committee assignment waived. H.J. 142

3 1/20/00 Referred to Judiciary.

4 1/28/00 Scheduled for Committee hearing on this date.

5 1/28/00 Judiciary Do Pass Amended, Passed, AYES 8, NAYS 3. H.J. 285

6 2/1/00 House of Representatives Do Pass Amended, Passed, AYES 40, NAYS 29. H.J. 354

7 2/2/00 First read in Senate and referred to Transportation. S.J. 300

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

9 2/8/00 Transportation Tabled, AYES 5, NAYS 2. S.J. 351

10 2/17/00 Transportation Removed from Table, AYES 4, NAYS 2.

11 2/22/00 Transportation Hog Housed.

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

13 2/22/00 Transportation Do Pass Amended, Passed, AYES 5, NAYS 2. S.J. 593

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

572D0558

SENATE STATE AFFAIRS COMMITTEE

ENGROSSED NO. **HB1211** - 2/22/00

Introduced by: Representatives Eccarius, Cutler, Duniphan, Fischer-Clemens, Haley, Jaspers, McNenny, Munson (Donald), and Wetz and Senators Whiting, Brosz, Frederick, Ham, Madden, Moore, Olson, and Reedy

1 FOR AN ACT ENTITLED, An Act to revise the date at which certain telecommunications
2 companies may begin certain promotions for local exchange service.

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

4 Section 1. That § 49-31-86.2 be amended to read as follows:

5 49-31-86.2. The exemption for promotions provided by § 49-31-86 is not effective until
6 December 31, 2000, in the local exchange area of any facilities-based competitive local exchange
7 carrier certified by the commission that provides broadband network services throughout its local
8 exchange area. However, the exemption for promotions provided by § 49-31-86 is not effective
9 until July 1, 2001, in the local exchange area of any facilities-based local exchange carrier
10 certified by the commission after July 31, 1998, that provides broadband network services
11 throughout its local exchange area.

1 **BILL HISTORY**

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

3 1/20/00 Referred to State Affairs.

4 1/28/00 Scheduled for Committee hearing on this date.

5 1/28/00 Deferred by Chair.

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

7 2/2/00 State Affairs Do Pass, Passed, AYES 11, NAYS 1. H.J. 363

8 2/3/00 House of Representatives Deferred to another day. H.J. 401

9 2/4/00 House of Representatives Deferred to another day. H.J. 433

10 2/7/00 House of Representatives Do Pass, Passed, AYES 59, NAYS 7. H.J. 453

11 2/8/00 First read in Senate and referred to State Affairs. S.J. 360

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

13 2/16/00 Deferred by Chair.

14 2/18/00 Scheduled for Committee hearing on this date.

15 2/18/00 State Affairs Do Pass Amended, Passed, AYES 9, NAYS 0. S.J. 567

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

636D0365

SENATE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB1215** - 2/22/00

Introduced by: Representatives Clark, Cutler, Derby, Earley, Engbrecht, Fitzgerald, Michels, Sutton (Daniel), and Young and Senators Vitter, Ham, and Whiting

1 FOR AN ACT ENTITLED, An Act to allow contracts or agreements between governmental
2 entities to be exempt from certain conflicts of interest.

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

4 Section 1. That § 6-1-2 be amended to read as follows:

5 6-1-2. The provisions of § 6-1-1 are not applicable if the contract is made pursuant to any
6 one of the conditions set forth in the following subdivisions, without fraud or deceit; but, the
7 contract is voidable if the provisions of the applicable subdivision were not fully satisfied or
8 present at the time the contract was entered into:

9 (1) Any contract involving one thousand dollars or less regardless of whether other
10 sources of supply or services are available within the county, municipality, township,
11 or school district, provided that the consideration therefor is reasonable and just;

12 (2) Any contract involving more than one thousand dollars but less than the amount for
13 which competitive bidding is required, and there is no other source of supply or
14 services available within the county, municipality, township, or school district
15 provided that the consideration therefor is reasonable and just and further provided
16 that the accumulated total of such contracts paid during any given fiscal year ~~shall do~~

1 not exceed the amount specified in § 5-18-3;

2 (3) Any contract with any firm, association, corporation, or cooperative association for
3 which competitive bidding is not required and where other sources of supply and
4 services are available within the county, municipality, township or school district, and
5 the consideration therefor is reasonable and just, unless the majority of the governing
6 body are members or stockholders who collectively have controlling interest, or any
7 one of them is an officer or manager of any such firm, association, corporation, or
8 cooperative association then any such contract ~~shall be~~ is null and void;

9 (4) Any contract with any firm, association, corporation, or cooperative association for
10 which competitive bidding procedures are followed pursuant to chapter 5-18, and
11 where more than one such competitive bid is submitted;

12 (5) Any contract for professional services with any individual, firm, association,
13 corporation or cooperative, if the individual or any member of the firm, association,
14 corporation or cooperative is an elected or appointed officer of a county, municipality,
15 township, or school district, whether or not other sources of such services are
16 available within the county, municipality, township, or school district, provided the
17 consideration therefor is reasonable and just;

18 (6) Any contract for commodities, materials, supplies, or equipment found in the state
19 price list established pursuant to § 5-23-8.1, at the price there established or below;
20 and

21 (7) Any contract or agreement between a governmental entity specified in § 6-1-1 and a
22 public postsecondary educational institution when an employee of the Board of
23 Regents serves as an elected or appointed officer for the governmental entity,
24 provided that the employee does not receive direct compensation or payment as a
25 result of the contract or agreement.

1 **BILL HISTORY**

2 1/20/00 First read in House and referred to Local Government. H.J. 158

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

4 2/1/00 Local Government Do Pass Amended, Passed, AYES 12, NAYS 1. H.J. 336

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

6 2/4/00 House of Representatives Do Pass Amended, Passed, AYES 53, NAYS 10. H.J. 432

7 2/7/00 First read in Senate and referred to Local Government. S.J. 343

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

9 2/16/00 Deferred by Chair.

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

11 2/18/00 Local Government Do Pass Amended, Passed, AYES 6, NAYS 0. S.J. 568

12 2/18/00 Local Government Place on Consent Calendar.

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

881D0508

SENATE ENGROSSED NO. **HB1243** - 2/23/00

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

Introduced by: Representatives Peterson, Brown (Jarvis), Brown (Richard), Clark, Fischer-Clemens, Lucas, McCoy, Michels, Sutton (Duane), and Wilson and Senators Daugaard, Lawler, Madden, Symens, and Whiting

1 FOR AN ACT ENTITLED, An Act to create a tobacco prevention and cessation program and
2 trust fund.

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

4 Section 1. There is hereby created the tobacco prevention and reduction program in the
5 Department of Human Services.

6 Section 2. There is created an eleven member Tobacco Prevention and Reduction Advisory
7 Board. The Governor shall appoint the members to the board. The terms of the initial
8 appointments shall be: four members appointed to a one-year term, four members appointed to
9 a two-year term, and three members appointed to a three-year term. All subsequent appointments
10 shall be for a three-year term. Any member appointed to fill a vacancy other than the natural
11 expiration of a term shall serve for only the unexpired portion of the term. No member of the
12 board may be affiliated with the tobacco industry. The board shall meet at least two times per
13 year.

14 Section 3. The Tobacco Prevention and Reduction Advisory Board, in collaboration with the
15 Department of Human Services, shall develop and approve a state-wide strategic plan to prevent

1 and reduce tobacco use. The plan shall set forth short term and long term goals, adequate
2 benchmarks and standards by which measures of program success under section 4 of this Act
3 may be appropriately evaluated. The board shall be responsible for establishing program
4 priorities, criteria for awarding grants, and assessing overall program performance.

5 Section 4. The tobacco prevention and reduction plan and moneys allocated therefor may be
6 used for the following programs or grants:

- 7 (1) Community based programs;
- 8 (2) School based programs;
- 9 (3) State-wide programs;
- 10 (4) Cessation programs;
- 11 (5) Public education and counter marketing;
- 12 (6) Enforcement of effective tobacco laws;
- 13 (7) Evaluation of tobacco programs; or
- 14 (8) Administration and oversight.

15 Section 5. The Tobacco Prevention and Reduction Advisory Board shall submit an annual
16 report to the Governor and the Legislature. The annual report shall detail the progress toward
17 meeting program goals and objectives, including reporting on changes in tobacco consumption,
18 tobacco use rates, and attitudes towards tobacco, especially among children and other high risk
19 populations.

20 Section 6. The tobacco prevention and reduction trust fund is established in the state
21 treasury. Interest earned on money in the fund shall be credited to the fund. Any money from
22 gifts, grants, or other funds may be deposited in the fund. The principal and interest may be
23 appropriated by the Legislature from the fund. The fund shall be invested according to §§ 4-5-23
24 and 4-5-26.

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.

4 1/28/00 Scheduled for Committee hearing on this date.

5 1/28/00 Deferred by Chair.

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

7 2/7/00 State Affairs Deferred to another day, AYES 10, NAYS 3.

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

9 2/8/00 State Affairs Do Pass, Passed, AYES 10, NAYS 2. H.J. 516

10 2/10/00 Motion to Amend, Passed. H.J. 593

11 2/10/00 House of Representatives Do Pass Amended, Failed, AYES 42, NAYS 26. H.J. 593

12 2/10/00 House of Representatives Deferred to another day, AYES 58, NAYS 9. H.J. 594

13 2/11/00 House of Representatives Reconsidered, AYES 58, NAYS 8. H.J. 602

14 2/11/00 Motion to Amend, Passed. H.J. 603

15 2/11/00 House of Representatives Do Pass Amended, Passed, AYES 53, NAYS 13. H.J. 603

16 2/14/00 First read in Senate and referred to State Affairs. S.J. 458

17 2/16/00 Scheduled for Committee hearing on this date.

18 2/18/00 State Affairs Hog Housed.

19 2/18/00 Scheduled for Committee hearing on this date.

20 2/18/00 State Affairs Do Pass Amended, Passed, AYES 8, NAYS 1. S.J. 567

21 2/23/00 Motion to Amend, Passed.

22 2/23/00 Senate Do Pass Amended, Passed, AYES 34, NAYS 1.

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

632D0267

SENATE ENGROSSED NO. **HB1244** - 2/23/00

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

Introduced by: Representatives Clark, Apa, Brown (Jarvis), Brown (Richard), Derby, Diedtrich (Elmer), Engbrecht, Garnos, Hagen, Hennies, Juhnke, Klautt, McCoy, Michels, Munson (Donald), Slaughter, Smidt, Sutton (Duane), Wilson, Wudel, and Young and Senators Hainje, Brown (Arnold), Ham, Kleven, Paisley, and Reedy

1 FOR AN ACT ENTITLED, An Act to authorize the Board of Regents to provide a tuition
2 reduction for children of nonresident alumni.

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

4 Section 1. The Board of Regents may create a tuition reduction program for children of
5 alumni of the state-supported colleges or universities who are no longer South Dakota residents.

1 **BILL HISTORY**

2 1/21/00 First read in House and referred to committee assignment waived. H.J. 179

3 1/24/00 Referred to Appropriations.

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

5 2/1/00 Appropriations Deferred to another day.

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

7 2/7/00 Appropriations Deferred to another day.

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

9 2/9/00 Appropriations Report Without Recommendation, AYES 8, NAYS 2. H.J. 522

10 2/10/00 House of Representatives Placed on Calendar, AYES 51, NAYS 15. H.J. 561

11 2/10/00 House of Representatives Deferred to another day, AYES 58, NAYS 9. H.J. 594

12 2/11/00 House of Representatives Do Pass, Passed, AYES 47, NAYS 16. H.J. 620

13 2/14/00 First read in Senate and referred to Appropriations. S.J. 458

14 2/16/00 Scheduled for Committee hearing on this date.

15 2/16/00 Deferred by Chair.

16 2/17/00 Scheduled for Committee hearing on this date.

17 2/17/00 Deferred by Chair.

18 2/18/00 Appropriations Hog Housed.

19 2/18/00 Scheduled for Committee hearing on this date.

20 2/18/00 Appropriations Do Pass Amended, Passed, AYES 9, NAYS 0. S.J. 566

21 2/23/00 Senate Do Pass Amended, Passed, AYES 32, NAYS 1.

22 2/23/00 Senate Title Amended Passed.

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

816D0718

SENATE STATE AFFAIRS COMMITTEE
ENGROSSED NO. **HB1312** - 2/22/00

Introduced by: Representatives Earley and Heineman and Senator Munson (David)

1 FOR AN ACT ENTITLED, An Act to exempt the gross receipts from certain events or activities
2 sponsored by nonprofits for the benefit of homeless persons.

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

4 Section 1. That § 10-45-13 be amended by adding thereto a NEW SUBDIVISION to read
5 as follows:

6 Admissions to events or receipts from activities sponsored and operated by religious,
7 benevolent, or charitable organizations for a period not to exceed thirty days in any calendar
8 year, if the entire amount of the receipts after deducting all costs directly related to the conduct
9 of the event or activity is expended for the benefit of homeless persons.

1 **BILL HISTORY**

2 1/24/00 First read in House and referred to committee assignment waived. H.J. 204

3 1/25/00 Referred to Taxation.

4 2/8/00 Scheduled for Committee hearing on this date.

5 2/8/00 Taxation Do Pass, Passed, AYES 7, NAYS 2. H.J. 499

6 2/9/00 House of Representatives Do Pass, Passed, AYES 65, NAYS 2. H.J. 548

7 2/10/00 First read in Senate and referred to State Affairs. S.J. 429

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

9 2/14/00 Deferred by Chair.

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

11 2/18/00 Scheduled for Committee hearing on this date.

12 2/18/00 State Affairs Do Pass Amended, Passed, AYES 8, NAYS 0. S.J. 568

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

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** - 2/23/00

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. H.J. 773

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

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