



# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

555D0501

## HOUSE STATE AFFAIRS COMMITTEE ENGROSSED NO. **HB1073** - 2/9/00

Introduced by: Representatives Young, Apa, and Chicoine and Senators Dunn (Jim) and Olson

1 FOR AN ACT ENTITLED, An Act to permit assessments based on benefits.

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

3 Section 1. That § 9-45-32 be amended to read as follows:

4 9-45-32. In lieu of the method of apportionment prescribed in §§ 9-45-30 and 9-45-31, it  
5 may be provided in and by the resolution determining the necessity of any street improvement  
6 that the cost thereof shall be assessed against ~~all assessable lots and tracts~~ each lot and tract of  
7 ~~land fronting or abutting thereon or lying within one-half block or three hundred feet thereof,~~  
8 ~~whichever is less,~~ according to the benefits determined by the governing body to accrue to each  
9 ~~of such lots and tracts~~ lot and tract from the construction of the improvement. ~~In such event the~~  
10 The governing body, in preparing, considering, and hearing objections to the assessment roll as  
11 provided in chapter 9-43, shall make such an investigation as may be necessary and shall find and  
12 determine the amount in which each such lot and tract will be especially is specifically benefited  
13 by the construction of the improvement, and shall assess against each such lot and tract such the  
14 amount, not exceeding said the benefit as shall be necessary to pay its just portion of the total  
15 cost of the work to be assessed. No payment may be made by the state on any assessment against  
16 state property except in accordance with § 5-14-19.

1 **BILL HISTORY**

2 1/15/00 First read in House and referred to State Affairs. H.J. 54

3 2/9/00 Scheduled for Committee hearing on this date.

4 2/9/00 State Affairs Do Pass Amended, Passed, AYES 13, NAYS 0.

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

391D0364

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

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

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

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

4 Section 1. Terms used in this Act mean:

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

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

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

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

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

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

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

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

9 (a) The United States Pharmacopeia Drug Information;

10 (b) DRUGDEX; or

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

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

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

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

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

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

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

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

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

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

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

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

1 **BILL HISTORY**

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

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

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

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

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

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

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

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

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

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

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

933D0399

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

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

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

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

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

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

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

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

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

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

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

1 **BILL HISTORY**

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

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

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

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

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

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

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

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

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

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

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

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

508D0537

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

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

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

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

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

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

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

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

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

1 **BILL HISTORY**

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

3 1/20/00 Referred to Judiciary.

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

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

6 2/2/00 Deferred by Chair.

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

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

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

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

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

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

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

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

448D0704

HOUSE STATE AFFAIRS COMMITTEE

ENGROSSED NO. **HB1197** - 2/9/00

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

Introduced by: Representative Wilson

1 FOR AN ACT ENTITLED, An Act to exempt mentally retarded persons from the death penalty

2 and to provide for a determination of mental retardation in such cases.

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

4 Section 1. That chapter 23A-27A be amended by adding thereto a NEW SECTION to read  
5 as follows:

6 Notwithstanding any other provision of law, the death penalty may not be imposed upon any  
7 person who was mentally retarded at the time of the commission of the offense and whose mental  
8 retardation was manifested and documented before the age of eighteen years.

9 Section 2. That chapter 23A-27A be amended by adding thereto a NEW SECTION to read  
10 as follows:

11 As used in this Act, mental retardation means significant subaverage general intellectual  
12 functioning existing concurrently with substantial related deficits in applicable adaptive skill  
13 areas. An intelligence quotient exceeding seventy on a reliable standardized measure of  
14 intelligence is presumptive evidence that the defendant does not have significant subaverage  
15 general intellectual functioning.

16 Section 3. That chapter 23A-27A be amended by adding thereto a NEW SECTION to read

1 as follows:

2 Not later than ninety days prior to the commencement of trial, the defendant may upon a  
3 motion alleging reasonable cause to believe the defendant was mentally retarded at the time of  
4 the commission of the offense, apply for an order directing that a mental retardation hearing be  
5 conducted prior to trial. If, upon review of the defendant's motion and any response thereto, the  
6 court finds reasonable cause to believe the defendant was mentally retarded, it shall promptly  
7 conduct a hearing without a jury to determine whether the defendant was mentally retarded. If  
8 the court finds after the hearing that the defendant was not mentally retarded at the time of the  
9 commission of the offense, the court shall, prior to commencement of trial, enter an order so  
10 stating, but nothing in this paragraph precludes the defendant from presenting mitigating  
11 evidence of mental retardation at the sentencing phase of the trial. If the court finds after the  
12 hearing that the defendant established mental retardation by a preponderance of the evidence,  
13 the court shall prior to commencement of trial, enter an order so stating. Unless the order is  
14 reversed on appeal, a separate sentencing proceeding under this section may not be conducted  
15 if the defendant is thereafter convicted of murder in the first degree. If a separate sentencing  
16 proceeding is not conducted, the court, upon conviction of a defendant for the crime of murder  
17 in the first degree, shall sentence the defendant to life imprisonment without parole.

18 Section 4. That chapter 23A-27A be amended by adding thereto a NEW SECTION to read  
19 as follows:

20 If the court enters an order pursuant to section 3 of this Act finding that the defendant was  
21 mentally retarded at the time of the commission of the offense, the state may appeal as of right  
22 from the order. Upon entering such an order, the court shall afford the state a reasonable period  
23 of time, which may not be less than ten days, to determine whether to take an appeal from the  
24 order finding that the defendant was mentally retarded. The taking of an appeal by the state stays  
25 the effectiveness of the court's order and any order fixing a date for trial.

1 Section 5. That chapter 23A-27A be amended by adding thereto a NEW SECTION to read  
2 as follows:

3 If a defendant serves notice pursuant to section 3 of this Act, the state may make application,  
4 upon notice to the defendant, for an order directing that the defendant submit to an examination  
5 by a psychiatrist, licensed psychologist, or licensed psychiatric social worker designated by the  
6 state's attorney, for the purpose of rebutting evidence offered by the defendant. Counsel for the  
7 state and the defendant have the right to be present at the examination. A videotaped recording  
8 of the examination shall be made available to the defendant and the state's attorney promptly  
9 after its conclusion. The state's attorney shall promptly serve on the defendant a written copy of  
10 the findings and evaluation of the examiner. If a defendant is subjected to an examination  
11 pursuant to an order issued in accordance with this section, any statement made by the defendant  
12 for the purpose of the examination is inadmissible in evidence against the defendant in any  
13 criminal action or proceeding on every issue other than that of whether the defendant was  
14 mentally retarded at the time of the commission of the offense, but such statement is admissible  
15 upon such an issue whether or not it would otherwise be deemed a privileged communication.

16 Section 6. That chapter 23A-27A be amended by adding thereto a NEW SECTION to read  
17 as follows:

18 The provisions of this Act apply only to offenses alleged to have been committed by the  
19 defendant after the effective date of this Act.

20 Section 7. That chapter 23A-27A be amended by adding thereto a NEW SECTION to read  
21 as follows:

22 The provisions of this Act are essentially and inseparably connected and interdependent.

1 **BILL HISTORY**

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

3 1/20/00 Referred to State Affairs.

4 1/31/00 Deferred to 36th legislative day, AYES 9, NAYS 4. H.J. 324

5 1/31/00 Scheduled for Committee hearing on this date.

6 2/8/00 State Affairs Reconsidered, AYES 11, NAYS 2.

7 2/8/00 State Affairs Do Pass Amended, Passed, AYES 12, NAYS 1.

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

400D0671

## SENATE EDUCATION COMMITTEE ENGROSSED NO. **HB1200** - 2/16/00

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

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

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

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

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

1 disqualifying record. Any person whose employment is subject to the requirements of this section  
2 shall pay any fees charged for the criminal record check. However, the school board or  
3 governing body may reimburse the person for the fees.

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

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

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

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

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

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

23 Section 5. For purposes of this Act, the term, conviction, means a plea or verdict of guilty  
24 or a conviction following a plea of nolo contendere in this state or any other state. A duly certified  
25 copy of the court record is proof of the conviction and sentence.

1 **BILL HISTORY**

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

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

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

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

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

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

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

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

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

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

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

249D0619

## HOUSE TAXATION COMMITTEE ENGROSSED NO. **HB1213** - 2/9/00

Introduced by: Representatives McNenny, Brown (Jarvis), Chicoine, Koskan, and Waltman and  
Senators Symens, Brown (Arnold), Flowers, Vitter, and Whiting

1 FOR AN ACT ENTITLED, An Act to provide for an appeal of valuation decisions of the  
2 secretary of revenue and for the recovery of certain expenses.

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

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

6 Any person, firm, corporation, public or private, taxing district, or state department  
7 interested, may appeal from the decision of the secretary of revenue in calculating a factor for  
8 agricultural and nonagricultural valuations pursuant to § 10-13-37.1. The appeal may be made  
9 to the office of hearing examiners or the circuit court in the manner prescribed in chapter 10-11  
10 for taking appeals from decisions of the county board of equalization.

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

13 Any appeal made pursuant to section 1 of this Act does not prevent the application of the  
14 factor calculated by the secretary of revenue pursuant to § 10-13-37.1 pending exhaustion of all  
15 appeal rights of the parties to the appeal. If the factor calculated by the secretary of revenue is  
16 revised on appeal, appropriate relief shall be provided for that class of property affected in the

1 next budget cycle following the final decision of such appeal.

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

4 The circuit court may award disbursements, including reasonable attorneys' fees, in an action  
5 brought pursuant to section 1 of this Act by any appellant if the appellant does not prevail in its  
6 appeal of any factor calculated in § 10-13-37.1.

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

9 On motion, the supreme court may award reasonable attorneys' fees in an action brought to  
10 the supreme court pursuant to this Act against any appellant relative to a factor calculated in  
11 § 10-13-37.1, if the appellant does not prevail in its appeal. The motion shall be accompanied by  
12 counsel's verified itemized statement of costs incurred and legal services rendered.

1 **BILL HISTORY**

2 1/19/00 First read in House and referred to committee assignment waived. H.J. 144

3 1/20/00 Referred to Judiciary.

4 1/26/00 House of Representatives Referred to Taxation. H.J. 246

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

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

7 2/8/00 Taxation Do Pass Amended, Passed, AYES 10, NAYS 0. H.J. 501

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

448D0703

SENATE STATE AFFAIRS COMMITTEE

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

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

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

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

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

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

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

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

1 **BILL HISTORY**

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

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

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

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

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

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

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

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

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

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

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

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

439D0259

## HOUSE ENGROSSED NO. **HB1247** - 2/11/00

Introduced by: Representatives Burg, Crisp, Hagen, Lockner, and Nachtigal and Senators  
Duxbury, Dennert, Hainje, and Kleven

1 FOR AN ACT ENTITLED, An Act to revise certain provisions pertaining to ambulance  
2 districts.

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

4 Section 1. That § 34-11A-5 be amended to read as follows:

5 34-11A-5. If the proposed district is situated within two or more counties, the county auditor  
6 of the county ~~wherein~~ containing the largest area ~~is contained~~, shall confer with the auditor ~~or~~  
7 ~~auditors of the~~ any other counties county concerned, and shall obtain a certificate as to the  
8 adequacy of the petitions or resolution pertaining to ~~the~~ such county ~~or counties, and thereafter~~  
9 ~~he~~. Thereafter the auditor of the county containing the largest area shall designate a time and  
10 place for hearing before a joint meeting of the boards of county commissioners of all counties  
11 in which the proposed district is to be situated and shall give notice thereof by publication in a  
12 manner provided in § 34-11A-6.

13 Section 2. That § 34-11A-12 be amended to read as follows:

14 34-11A-12. Permanent organization shall be effected by the election of a board of directors  
15 consisting of not less than five residents of the district. No employee of the ambulance district  
16 may serve as a director.

1 Section 3. That § 34-11A-19 be amended to read as follows:

2 34-11A-19. The estimate provided by § 34-11A-18 shall be certified by the president and  
3 secretary to ~~the proper~~ any affected county auditor ~~or county auditors~~, on or before June thirtieth  
4 of each year, who shall levy a tax not to exceed one dollar per thousand dollars of taxable  
5 valuation of the property within the district for the maintenance of the ambulance district for the  
6 fiscal year as provided by law.

7 Section 4. That § 34-11A-28 be amended to read as follows:

8 34-11A-28. The boundaries of any ambulance district organized under the provisions of this  
9 chapter may be changed in the manner prescribed by ~~§§ 34-11A-4 to 34-11A-10, inclusive~~ for  
10 establishment of a district, or the board of directors of an ambulance district may submit a  
11 proposed decrease in the size of the district to voters at an annual or special meeting, but the  
12 changes of boundaries of any such district may not impair or affect its organization or its right  
13 in or to property; nor may it impair, affect or discharge any contract, obligation, lien, or change  
14 for or upon which it might be liable had such change of boundaries not been made.

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 Local Government.

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

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

6 2/8/00 Local Government Do Pass Amended, Passed, AYES 11, NAYS 0. H.J. 505

7 2/10/00 House of Representatives Do Pass Amended, Failed, AYES 31, NAYS 37. H.J. 576

8 2/10/00 House of Representatives Reconsidered, AYES 54, NAYS 14. H.J. 586

9 2/10/00 Motion to Amend, Passed. H.J. 587

10 2/10/00 House of Representatives Do Pass Amended, Passed, AYES 64, NAYS 5. H.J. 587

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

237D0773

HOUSE STATE AFFAIRS COMMITTEE

ENGROSSED NO. **HB1261** - 2/9/00

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

Introduced by: Representatives Weber, Diedrich (Elmer), Duenwald, Monroe, Sebert, and Waltman and Senators Lawler, Dunn (Rebecca), Flowers, Lange, Madden, Reedy, Symens, and Vitter

1 FOR AN ACT ENTITLED, An Act to permit schools to display the Ten Commandments.

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

3 Section 1. An object or document containing the words of the Ten Commandments may be  
4 displayed in any public school classroom, public school building, or at any public school event,  
5 along with other objects and documents of cultural, legal, or historical significance that have  
6 formed and influenced the legal and governmental systems of the United States and the State of  
7 South Dakota. Such display of an object or document containing the words of the Ten  
8 Commandments:

9 (1) Shall be in the same manner and appearance generally as other objects and documents  
10 displayed; and

11 (2) May not be presented or displayed in any fashion that results in calling attention to it  
12 apart from the other displayed objects and documents.

1 **BILL HISTORY**

2 1/24/00 First read in House and referred to committee assignment waived. H.J. 195

3 1/25/00 Referred to State Affairs.

4 2/9/00 Scheduled for Committee hearing on this date.

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

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

556D0707

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

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

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

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

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

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

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

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

1 follows:

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

1 **BILL HISTORY**

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

3 1/25/00 Referred to State Affairs.

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

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

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

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

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

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

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

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

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

484D0646

HOUSE HEALTH AND HUMAN SERVICES  
COMMITTEE ENGROSSED NO. **HB1282** - 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: Representatives Klaudt, Duenwald, Fryslie, Hunt, Koskan, Sebert, Wetz, and Wilson and Senators Bogue, Benson, Kleven, Lawler, Madden, and Vitter

- 1 FOR AN ACT ENTITLED, An Act to prohibit persons other than physicians from performing  
2 or assisting at certain medical tasks for the purpose of performing or inducing abortions.  
3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:  
4 Section 1. The performance of an abortion may not be delegated to any person not licensed  
5 under chapter 36-4 and may not be part of a practice or collaborative agreement with a person  
6 not licensed under chapter 36-4.

1 **BILL HISTORY**

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

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

4 2/7/00 Health and Human Services Hog Housed.

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

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

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

175D0060

## HOUSE ENGROSSED NO. **SB12** - 2/17/00

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

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

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

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

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

1 **BILL HISTORY**

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

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

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

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

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

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

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

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

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

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

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

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

14 2/16/00 Motion to Amend, Passed. H.J. 697

15 2/16/00 House of Representatives Do Pass Amended, Passed, AYES 64, NAYS 0. H.J. 697

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

400D0788

## HOUSE ENGROSSED NO. **SB205** - 2/17/00

Introduced by: The Committee on Agriculture and Natural Resources at the request of the  
Governor

1 FOR AN ACT ENTITLED, An Act to provide management authority to the Department of  
2 Game, Fish and Parks over certain property being acquired from the United States.

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

4 Section 1. That chapter 41-2 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 The State of South Dakota accepts from the United States ownership of property pursuant  
7 to and as described in Title VI of the Water Resources Development Act of 1999, Public Law  
8 106-53 consisting of property, land, improvements, and recreation areas to be utilized for fish,  
9 wildlife, park, and all other recreational uses and purposes. Upon transfer of ownership or  
10 interim acquisition of the property by lease or agreement, the Department of Game, Fish and  
11 Parks may manage, control, and improve the property on behalf of the state. The Game, Fish and  
12 Parks Commission may promulgate rules pursuant to chapter 1-26 to designate areas within the  
13 property as a state recreation area, a state nature area, a state lakeside use area, a state  
14 recreational trail, a public shooting area, a game production area, a wildlife refuge, a lake and  
15 fishing access use area, or a controlled hunting area. Management of the property includes the  
16 power to lease any of the property acquired in this section for any agricultural, recreational, or

- 1 other purposes authorized by law. Any other statutory authority of the commission to
- 2 promulgate rules shall apply to the property subject to the Water Resource Development Act.

1 **BILL HISTORY**

2 1/25/00 First read in Senate and referred to Agriculture and Natural Resources. S.J. 186

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

4 2/1/00 Agriculture and Natural Resources Do Pass, Passed, AYES 8, NAYS 0. S.J. 280

5 2/3/00 Senate Do Pass, Passed, AYES 29, NAYS 3. S.J. 309

6 2/4/00 First read in House and referred to Agriculture and Natural Resources. H.J. 433

7 2/15/00 Scheduled for Committee hearing on this date.

8 2/15/00 Agriculture and Natural Resources Do Pass, Passed, AYES 11, NAYS 0. H.J. 664

9 2/16/00 Motion to Amend, Passed. H.J. 701

10 2/16/00 House of Representatives Do Pass Amended, Passed, AYES 64, NAYS 2. H.J. 701