



# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

336E0720

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1193** - 02/07/2001

Introduced by: Representatives Peterson (Bill) and Clark and Senator Staggers

1 FOR AN ACT ENTITLED, An Act to provide procedures for initiating proposals for  
2 cooperation or consolidation as authorized by Constitutional Amendment B as agreed to by  
3 the voters of South Dakota during the 2000 general election.

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

5 Section 1. Terms used in this Act mean:

6 (1) "Governing body," the board of commissioners, the common council, the executive  
7 board, or other name by which a local government entity is controlled, concerned, or  
8 affected;

9 (2) "Local government entity," the State of South Dakota, county, municipality, or  
10 special governmental district authorized by the laws of South Dakota or any of the  
11 states that border South Dakota;

12 (3) "Person in charge of an election" or "person charged with the conduct of an election,"  
13 the county auditor in all cases except local elections for a municipality, school district,  
14 township, or other political subdivision, in which case it is the officer having the  
15 position comparable to the auditor in that unit of government if not specifically

1 designated by law;

2 (4) "Publish" or "publication," publication in the official newspaper of the local  
3 government entities concerned or affected; or if no official newspaper is available,  
4 publication in a legal newspaper published in the local government entity, if any; or,  
5 if no legal newspaper is published within the local entity, publication in any legal  
6 newspaper that serves the local government entity;

7 (5) "Resolution of cooperation or consolidation" or "resolution," any initiated measure  
8 made for the purpose of initiating, effecting, or carrying out an intention to cooperate  
9 in providing services or functions, or combining services or functions between local  
10 governmental entities.

11 Section 2. The right to propose a resolution of cooperation or consolidation to the  
12 government of a local government entity rests with the registered voters of the local government  
13 entity. Any resolution proposed under this chapter shall be referred to a vote of the registered  
14 voters of the local government entity by the filing, with the entity's person in charge of an  
15 election, of a petition signed by a number of voters equivalent to fifteen percent of those voting  
16 in the last preceding gubernatorial election in the local government entity. A petition to propose  
17 a resolution shall be filed with the person in charge of an election of each of the affected local  
18 government entities before an election may occur.

19 Section 3. No initiated resolution of cooperation may become operative unless approved by  
20 a majority of the votes cast for and against the resolution in each of the affected local  
21 government entities. If so approved, the resolution takes effect one hundred eighty days after the  
22 election or other date as specifically stated in the resolution or within one hundred eighty days  
23 as the affected local government entities may agree.

24 Section 4. An initiated resolution may propose combining or consolidating any local

1 government functions including those that may be necessary for the immediate preservation of  
2 the public peace, health, or safety or for the support of any government or existing public  
3 institutions.

4 Section 5. The State Board of Elections shall promulgate rules pursuant to chapter 1-26  
5 prescribing the format for a resolution of cooperation or consolidation petition and its  
6 verification.

7 Section 6. The signer or circulator of the petition may add the signer's place of residence and  
8 the date of signing. The signer's post office box number may be given in lieu of a street address  
9 if the signer lives within a municipality of the second or third class. A date may be written in full  
10 or may be written using standard abbreviations, including numerals. No signature on a petition  
11 is valid if signed more than one year before the filing of the petitions.

12 Section 7. Each person who has circulated a petition shall, before filing the petition, sign an  
13 affidavit, under oath, verifying that the person circulated the petition and that either the person  
14 circulating the petition or the signer added the signer's place of residence and date of signing. If  
15 multiple sheets of paper are necessary to obtain the required number of signatures, each sheet  
16 shall be self-contained and separately verified by the circulator.

17 Section 8. When a petition to initiate a resolution is filed with a person in charge of an  
18 election, that person shall present it to the local government entity governing board at its next  
19 regular or special meeting. The local person in charge of an election shall certify that the  
20 minimum number of signatures required pursuant to section 2 of this Act have been filed.

21 The local government entity governing boards shall submit the resolution to a vote in the  
22 manner prescribed for a referendum within one hundred twenty days after filing in all affected  
23 local government entities. The local government entity governing boards shall cooperate with  
24 the local government entity governing board of each affected jurisdiction to establish a

1 simultaneous election day for the resolution. However, if the petition is filed within four months  
2 before the primary, general, or special statewide election, the ordinance or resolution may be  
3 submitted at the primary, general, or special statewide election if time allows for the resolution  
4 to be included on the ballot.

5 Section 9. If the local government entities cannot reach an agreement on sharing costs, each  
6 local government entity is responsible for its costs for the election. If there are any shared costs  
7 between the local government entities, they shall be paid in proportional shares based on the  
8 number of registered voters in each of the affected jurisdictions.

9 Section 10. The person in charge of an election shall have ballots printed for the vote upon  
10 the resolution and have them distributed as other official ballots are distributed. All questions to  
11 be voted upon at the same election may be submitted upon the same ballot.

12 Section 11. The person in charge of an election shall preserve all petitions requesting a  
13 resolution for at least two years. The petitions are open to public inspection upon reasonable  
14 request.

15 Section 12. No question contained in an initiated resolution may be voted upon again within  
16 one year from the date of the election thereon.

17 Section 13. A local government entity governing board may propose and adopt a resolution  
18 under this Act and directly present it to the people for a vote as allowed under this Act without  
19 resorting to the petition process.

20 Section 14. The court shall take judicial notice of the existence of all local government  
21 entities organized under the general laws of this state and of any change of organization  
22 authorized thereby.

23 Section 15. Any petition filed pursuant to this Act may be made up and signed and shall be  
24 liberally construed as provided by the statute governing an initiated law.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

400E0740

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

**HB 1194** - 02/07/2001

Introduced by: Representatives Smidt and Hansen (Tom) and Senators Bogue and Greenfield

1 FOR AN ACT ENTITLED, An Act to increase certain penalties for unlawful use of computers  
2 and computer networks.

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

4 Section 1. That § 43-43B-1 be amended to read as follows:

5 43-43B-1. A person is guilty of unlawful use of a computer system, software, or data if he  
6 the person:

7 (1) Knowingly obtains the use of, ~~or~~ accesses (or exceeds authorized access), a computer  
8 system, or any part thereof, without the consent of the owner;

9 (2) Knowingly ~~alters or destroys computer programs or data without the consent of the~~  
10 ~~owner; or~~

11 ~~(3) Knowingly obtains use of, alters, accesses or destroys a computer system, or any part~~  
12 ~~thereof, as part of a deception for the purpose of obtaining money, property or~~  
13 ~~services from the owner of a computer system or any third party; or~~

14 ~~(4) Knowingly uses or discloses to another or attempts to use or disclose to another the~~

1 ~~numbers, codes, passwords or other means of access to a computer, computer~~  
2 ~~program or computer system without the consent of the owner~~ obtains the use of,  
3 accesses (or exceeds authorized access), a computer system, or any part thereof,  
4 without the consent of the owner, and such access or use includes access to  
5 confidential data or material;

6 (3) Knowingly copies or obtains information from a computer system, or compromises  
7 any security controls for such computer system, or uses or discloses to another, or  
8 attempts to use or disclose to another, the numbers, codes, passwords, or other means  
9 of access to a computer system without the consent of the owner;

10 (4) Knowingly disrupts, denies, or inhibits access to software or data without the consent  
11 of the owner;

12 (5) Knowingly disrupts, denies, or inhibits access to a computer system, without consent  
13 of the owner;

14 (6) Knowingly modifies, changes, or alters software or data, without the consent of the  
15 owner;

16 (7) Knowingly obtains use of, alters, accesses (or exceeds authorized access), destroys,  
17 disables, or inhibits access to a computer system, as part of a deception for the  
18 purpose of obtaining money, property, or services from the owner of a computer  
19 system, or any third party;

20 (8) Knowingly destroys or disables a computer system, without consent of the owner; or

21 (9) Knowingly destroys or disables software or computer data, without consent of the  
22 owner.

23 Section 2. That § 43-43B-2 be amended to read as follows:

24 43-43B-2. Terms used in this chapter, ~~unless the context requires otherwise,~~ mean:

- 1 (1) "Access," to instruct, communicate with, store data in, retrieve data from a ~~computer,~~  
2 ~~computer system or computer network;~~
- 3 (2) "Computer," an internally programmed, general purpose digital device capable of  
4 automatically accepting data, processing data and supplying the results of the  
5 operation;
- 6 (3) "~~Computer program~~ Software," a series of coded instructions or statements in a form  
7 acceptable to a computer system, which causes the computer system to process data  
8 in order to achieve a certain result;
- 9 (4) "Computer system," ~~a set of related, connected devices, including a computer and~~  
10 ~~other devices, including but not limited to~~ shall include any one or more computers,  
11 computer networks, other related devices, data input and output and storage devices,  
12 data communications links, ~~and computer programs and data, that make the system~~  
13 ~~capable of performing the special purpose data processing tasks for which it is~~  
14 ~~specified;~~
- 15 (5) "Computer network," a set of related, connected network electronics and  
16 communications links that allows any one or more computer system to communicate  
17 amongst or between themselves;
- 18 (5A) "Data," digitized information in any form that may be accessed by a computer system,  
19 regardless of whether the information is in transmission or stored on a computer  
20 system, diskette, compact diskette, cd-rom, tape, or in any other medium;
- 21 (6) "Destroy," to make unusable, render inoperable, render unable to accept or process  
22 data, or supply results, render unable to perform data processing tasks or cause  
23 computer networks to be unable to transfer data between computer systems for any  
24 amount of time.

1 Section 3. That § 43-43B-3 be amended to read as follows:

2 ~~43-43B-3. A person convicted of a violation of subdivision 43-43B-1 (1), (2), or (4) where~~  
3 ~~the value of the use, alteration, destruction, access or disclosure is one thousand dollars or less~~  
4 ~~is guilty~~ Violations of the provisions of § 43-43B-1 are punishable as follows:

5 (1) For a violation of subdivision (1), a Class 1 misdemeanor;

6 (2) For a violation of subdivision (2) or (3), a Class 6 felony;

7 (3) For a violation of subdivision (4), a Class 5 felony;

8 (4) For a violation of subdivision (5) or (6), a Class 4 felony;

9 (5) For a violation of subdivision (8) or (9), a Class 3 felony;

10 (6) For a violation of subdivision (7), a Class 2 felony.

11 Section 4. That § 43-43B-4 be repealed.

12 ~~43-43B-4. A person convicted of a violation of subdivision 43-43B-1 (1), (2), or (4) where~~  
13 ~~the value of the use, alteration, destruction, access or disclosure is more than one thousand~~  
14 ~~dollars is guilty of a Class 6 felony.~~

15 Section 5. That § 43-43B-5 be repealed.

16 ~~43-43B-5. A person convicted of a violation of subdivision 43-43B-1 (3) where the value of~~  
17 ~~the money, property or services obtained is one thousand dollars or less is guilty of a Class 1~~  
18 ~~misdemeanor.~~

19 Section 6. That § 43-43B-6 be repealed.

20 ~~43-43B-6. A person convicted of a violation of subdivision 43-43B-1 (3) where the value of~~  
21 ~~the money, property or services obtained is more than one thousand dollars shall be guilty of a~~  
22 ~~Class 4 felony.~~

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

940E0750

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

**HB 1274** - 02/07/2001

Introduced by: Representatives Broderick, Abdallah, Brown (Richard), Garnos, Heineman, Hennies (Thomas), Jaspers, Michels, and Murschel and Senators Sutton (Dan), Daugaard, de Hueck, Everist, and Symens

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the operation of child  
2 welfare agencies and registered and unregistered family day care homes.

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

4 Section 1. That § 26-6-14.10 be amended to read as follows:

5 26-6-14.10. No person who has been convicted of child abuse pursuant to chapter 26-10 or  
6 a sex offense pursuant to chapter 22-22 and no person whose name appears on the central  
7 registry for child abuse and neglect may:

8 (1) Be licensed to operate a child welfare agency pursuant to § 26-6-14;

9 (2) Be registered to operate a family day care home pursuant to § 26-6-14.2; or

10 (3) Operate an unregistered family day care home as defined in § 26-6-14.8.

11 Section 2. That § 26-6-14.11 be amended to read as follows:

12 26-6-14.11. Any person who has been convicted of child abuse pursuant to chapter 26-10  
13 or a sex offense pursuant to chapter 22-22 ~~and who provides~~ or whose name appears on the  
14 central registry for child abuse and neglect is guilty of a Class 1 misdemeanor if such person:

- 1       (1)   Provides care and supervision of children either in a day care center or any family day  
2       care home ~~or who knowingly;~~ or
- 3       (2)   Permits another person ~~who~~ knowing that person has been convicted of child abuse  
4       pursuant to chapter 26-10 or a sex offense pursuant to chapter 22-22 or whose name  
5       appears on the central registry for child abuse and neglect to reside or work on the  
6       premises of a day care center or any family day care home ~~is guilty of a Class 1~~  
7       misdemeanor.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

145E0792

HOUSE EDUCATION COMMITTEE ENGROSSED NO.

**HB 1294** - 02/07/2001

Introduced by: Representatives Teupel, Garnos, Juhnke, and McCoy and Senators Apa, Kleven, and Whiting

1 FOR AN ACT ENTITLED, An Act to provide a financial incentive for school districts to  
2 consolidate.

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

4 Section 1. If two or more school districts consolidate after July 1, 2001, the new school  
5 district is entitled to one hundred dollars per average daily membership as defined in § 13-13-  
6 10.1, up to a maximum of six hundred average daily membership from each school district or  
7 partial school district as it existed prior to consolidation for three years after the first year of  
8 consolidation.

9 Section 2. For the purposes of this Act, no student may be counted more than once.

10 Section 3. The entitlement provided by this Act shall be paid by the Department of Education  
11 and Cultural Affairs out of any money appropriated for the purposes of this Act.

12 Section 4. The Department of Education and Cultural Affairs may promulgate rules pursuant  
13 to chapter 1-26 to implement the provisions of this Act.