



# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

319E0036

## SENATE ENGROSSED NO. **HB 1003** - 02/27/2001

Introduced by: Representatives Monroe, McCoy, and Slaughter and Senators Ham and Madden at the request of the Interim Judiciary Committee

1 FOR AN ACT ENTITLED, An Act to prohibit the use of genetic tests in the offer, sale, or  
2 renewal of certain types of insurance.

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

4 Section 1. Terms used in this Act mean:

- 5 (1) "Genetic information," information about genes, gene products, and inherited  
6 characteristics that may derive from the individual or a family member. This includes  
7 information regarding carrier status and information derived from laboratory tests that  
8 identify mutations in specific genes or chromosomes, physical medical examinations,  
9 family histories, and direct analysis of genes or chromosomes;
- 10 (2) "Genetic test," a test of human DNA, RNA, chromosomes, or genes performed in  
11 order to identify the presence or absence of an inherited variation, alteration, or  
12 mutation which is associated with predisposition to disease, illness, impairment, or  
13 other disorder. Genetic test does not mean a routine physical measurement; a  
14 chemical, blood, or urine analysis; a test for drugs or HIV infection; any test  
15 commonly accepted in clinical practice; or any test performed due to the presence of

1 signs, symptoms, or other manifestations of a disease, illness, impairment, or other  
2 disorder;

3 (3) "Health carrier," any person who provides health insurance in this state. The term  
4 includes a licensed insurance company, a prepaid hospital or medical service plan, a  
5 health maintenance organization, a multiple employer welfare arrangement, a fraternal  
6 benefit contract, or any person providing a plan of health insurance subject to state  
7 insurance regulation;

8 (4) "Health insurance," insurance provided pursuant to chapters 58-17 (except disability  
9 income insurance), 58-17C, 58-18 (except disability income insurance), 58-18B, 58-  
10 38, 58-40, and 58-41; and

11 (5) "Individual," an applicant for coverage or a person already covered by a health carrier.

12 Section 2. No health carrier, in determining eligibility for coverage, establishing premiums,  
13 limiting coverage, renewing coverage, or any other underwriting decision, may, in connection  
14 with the offer, sale, or renewal of health insurance:

15 (1) Require or request an individual or a blood relative of the individual to take a genetic  
16 test; or

17 (2) Take into consideration the fact that a genetic test was refused by an individual or a  
18 blood relative of the individual.

19 Section 3. That chapter 58-18 be amended by adding thereto a NEW SECTION to read as  
20 follows:

21 The director may promulgate rules pursuant to chapter 1-26 pertaining to the use of genetic  
22 information, whether the genetic information was derived from a genetic test or from another  
23 source, as it relates to group health benefit plans.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

400E0230

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1024** - 02/23/2001

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

1 FOR AN ACT ENTITLED, An Act to authorize the release of certain information about adult  
2 inmates and parolees to victims, the community, and governmental entities.

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

4 Section 1. That § 23-5-7 be amended to read as follows:

5 23-5-7. All photographs, impressions, measurements, descriptions, or records including  
6 confidential criminal investigative information, taken or made as provided for in § 23-5-6 shall  
7 be filed and preserved ~~in~~ by the department or institution where made or taken and shall not be  
8 published, transferred, or circulated outside such department or institutions, nor exhibited to the  
9 public or any person or persons except duly authorized ~~peace~~ law enforcement officers unless  
10 the subject of such photograph, measurement, description, or other record ~~shall have become~~  
11 becomes a fugitive from justice, or ~~shall have escaped~~ escapes from a penal ~~or reformatory~~  
12 institution. However, this section shall not apply to the release of information allowed pursuant  
13 to § 24-2-20.

14 Section 2. That § 24-15-1 be amended to read as follows:

1       24-15-1. If a defendant is sentenced to the state penitentiary, the Department of Corrections  
2 shall develop a file which shall contain a complete history of the defendant. The executive  
3 director of the Board of Pardons and Paroles shall generate an adequate case history of each  
4 inmate of the state penitentiary to enable him to make recommendations to the Board of Pardons  
5 and Paroles. The case history shall be transferred and kept as a permanent record of the  
6 Department of Corrections, solely for the proper supervision of the inmate by the Department  
7 of Corrections and as a guide to his needs. ~~Such~~ Except for the information authorized for  
8 release pursuant to § 24-2-20, such file may shall not be inspected by anyone other than members  
9 of the Board of Pardons and Paroles, its executive director, the secretary of corrections and any  
10 person specifically delegated for such access by the secretary of corrections, unless otherwise  
11 ordered by a circuit court.

12       Section 3. That § 24-15A-14 be amended to read as follows:

13       24-15A-14. If a defendant is sentenced to prison, the department shall develop a file which  
14 shall contain a complete history of the defendant. ~~The~~ Except for the information authorized for  
15 release pursuant to § 24-2-20, the record shall be a permanent record of the department, solely  
16 for the proper supervision of the inmate by the department and as a guide to the inmate's needs.  
17 The file may not be inspected by anyone other than members of the board, its executive director,  
18 the secretary and any person specifically delegated for such access by the secretary, unless  
19 otherwise ordered by a circuit court.

20       Section 4. That § 24-2-20 be amended to read as follows:

21       24-2-20. Notwithstanding the provisions of § 24-1-26, the records and any other facts that  
22 may have come to the knowledge of the warden and ~~his~~ the warden's opinion, when requested,  
23 regarding the fitness of any inmate, sentenced as an adult, for a modification of sentence, parole,  
24 pardon, or early release shall be furnished only to the sentencing court, the secretary of

1 corrections, the Board of Pardons and Parole, or the Governor. The Department of Corrections  
2 may release the following information on any inmate or parolee sentenced as an adult for  
3 purposes of community and victim notification pursuant to subdivisions 23A-28C-1(10) and  
4 (12), §§ 23A-28C-5, 24-15-8.1, 24-15-8.2, and 24-15A-22, and to other governmental entities  
5 as defined in section 5 of this Act:

- 6 (1) Name and any known aliases;
- 7 (2) Date of birth;
- 8 (3) Race and gender;
- 9 (4) Location of incarceration;
- 10 (5) Community of residence;
- 11 (6) Custody status and conditions of supervision;
- 12 (7) Any Department of Corrections sentence identification number;
- 13 (8) Any crime of conviction;
- 14 (9) Number of felony convictions;
- 15 (10) Sentence, time suspended, jail time credit, and revoked good-time credits;
- 16 (11) Offense, sentence, admission, release, and parole eligibility dates;
- 17 (12) Dates of pending hearings and final determinations of parole, suspended sentence,  
18 pardon, and commutation hearings;
- 19 (13) Status as an inmate, parolee, or person who has completed a prison term;
- 20 (14) County of conviction;
- 21 (15) Plea;
- 22 (16) Citizenship status; and
- 23 (17) Birth town, state, and country.

24 Section 5. That chapter 24-2 be amended by adding thereto a NEW SECTION to read as

1 follows:

2 As used in section 4 of this Act, the term, governmental entities, means any department,  
3 division, or other public agency of a municipality, county, state, or nation.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

400E0270

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1045** - 02/21/2001

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

1 FOR AN ACT ENTITLED, An Act to prohibit the disclosure and use of personal information  
2 contained in certain motor vehicle records.

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

4 Section 1. That chapter 32-5 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 Revenue;

8 (2) "Disclose," to knowingly engage in any practice or conduct to make available and  
9 make known personal information contained in a motor vehicle record about a person  
10 to any other person, organization, or entity, by any means of communication;

11 (3) "Express consent," consent in writing, and includes consent that is conveyed  
12 electronically that bears an electronic signature;

13 (4) "Individual record," a motor vehicle record containing personal information about a  
14 designated person who is the subject of the record as identified in a request;

1 (5) "Motor vehicle record," any record that pertains to a motor vehicle registration,  
2 motor vehicle title, or document issued by the department or any other state or local  
3 agency authorized to issue any such forms of credentials;

4 (6) "Personal information," information that identifies a person, including a social security  
5 number, driver identification number, name, address (but not the five-digit zip code),  
6 telephone number, and medical or disability information, but does not include  
7 information on vehicular accidents, driving or equipment-related violations, or  
8 registration status;

9 (7) "Record," includes any book, paper, photograph, photostat, card, film, tape,  
10 recording, electronic data, printout, or other documentary material regardless of  
11 physical form or characteristics.

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

14 Notwithstanding any other provision of state law to the contrary, except as provided in  
15 sections 3 to 5, inclusive, of this Act, the department and any officer, employee, agent, or  
16 contractor thereof may not disclose personal information about any person obtained by the  
17 department in connection with a motor vehicle record. Under no circumstances may a person's  
18 social security number or medical or disability information from a motor vehicle record be  
19 disclosed, except for the purposes permitted by subdivisions (1), (3), and (5) of section 5 of this  
20 Act.

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

23 Personal information shall be disclosed for use in connection with matters of motor vehicle  
24 or driver safety and theft, motor vehicle emissions, motor vehicle product alterations, recalls, or

1 advisories, performance monitoring of motor vehicles and dealers by motor vehicle  
2 manufacturers, and removal of nonowner records from the original owner records of motor  
3 vehicle manufacturers to carry out the purposes of Titles I and IV of the Anti Car Theft Act of  
4 1992, 15 U.S.C. 2021 et seq., as of January 1, 2001, the Automobile Information Disclosure  
5 Act, 15 U.S.C. 1231 et seq., as of January 1, 2001, and the Clean Air Act, 42 U.S.C. 7401 et  
6 seq., as of January 1, 2001, chapters 301, 305, and 321-331 of Title 49, as of January 1, 2001,  
7 and agency regulations enacted or adopted pursuant to the authority of, or to attain compliance  
8 with, these Acts of Congress.

9 Section 4. That chapter 32-5 be amended by adding thereto a NEW SECTION to read as  
10 follows:

11 Personal information may be disclosed to any person who demonstrates, in such form and  
12 manner as the department prescribes, that express consent of the person who is the subject of  
13 the information has been obtained.

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

16 Personal information may be disclosed to any person by the department on proof of the  
17 identity of the person requesting the record and representation by such person that the use of the  
18 personal information will be strictly limited to the following described uses:

19 (1) For use by any government agency, including any court or law enforcement agency,  
20 in carrying out its functions, or any private person or entity acting on behalf of a  
21 government agency in carrying out its functions;

22 (2) For use in the normal course of business by a legitimate business or its agents,  
23 employees, or contractors, but only under the following circumstances:

24 (a) To verify the accuracy of personal information submitted by the individual to

1 the business or its agents, employees, or contractors; and

2 (b) If such information as submitted is not correct or is no longer correct, to obtain  
3 the correct information for the purposes of preventing fraud by pursuing legal  
4 remedies against, or recovering on a debt or security interest against, the  
5 individual;

6 (3) For use in connection with any civil, criminal, administrative, or arbitral proceeding  
7 in any court or government agency or before any self-regulatory body, including the  
8 service of process, investigation in anticipation of litigation, and the execution or  
9 enforcement of judgments and orders, or pursuant to an order of any court;

10 (4) For use in research activities, and for use in producing statistical reports, so long as  
11 the personal information is not published, redisclosed, or used to contact individuals;

12 (5) For use by any insurer or insurance support organization, or by a self-insured entity,  
13 or its agents, employees, or contractors, in connection with claims investigation  
14 activities, anti-fraud activities, rating, or underwriting;

15 (6) For use in providing notice to the owners or lienholders of towed or impounded  
16 vehicles;

17 (7) For use by any licensed private investigative agency or licensed security service for  
18 any purpose permitted under this section;

19 (8) For use in connection with the operation of private toll transportation facilities;

20 (9) For any other use specifically authorized under the law of the state that holds the  
21 record, if such use is related to the operation of a motor vehicle or public safety.

22 Section 6. That chapter 32-5 be amended by adding thereto a NEW SECTION to read as  
23 follows:

24 The department may, prior to the disclosure of personal information as permitted under

1 sections 2 to 5, inclusive, of this Act, require the requesting person to meet conditions for the  
2 purposes of obtaining reasonable assurance concerning the identity of such requesting person,  
3 and, to the extent required, that the use will be only as authorized, or the consent of the person  
4 who is the subject of the information has been obtained. Such conditions may include the making  
5 and filing of a written application in such form and containing such information and certification  
6 requirements as the department may prescribe.

7 Section 7. That chapter 32-5 be amended by adding thereto a NEW SECTION to read as  
8 follows:

9 Any authorized recipient, except a recipient of an individual record under section 6 of this  
10 Act, who resells or rediscloses personal information shall maintain for a period of at least five  
11 years records as to the information obtained and the permitted use for which it was obtained and  
12 shall make such records available for inspection by the department, upon request.

13 Section 8. That chapter 32-5 be amended by adding thereto a NEW SECTION to read as  
14 follows:

15 Any person who requests disclosure of personal information from department records and  
16 who misrepresents his or her identity or knowingly makes a false statement to the department  
17 on any application required to be submitted pursuant to this Act is guilty of a Class 1  
18 misdemeanor. However, if any person uses the personal information obtained pursuant to this  
19 Act to commit a crime of violence as defined in § 22-1-2, the person is guilty of a Class 5 felony.

20 Section 9. That § 32-5-90.2 be repealed.

21 ~~32-5-90.2. The department may issue lists of motor vehicles and information relating to~~  
22 ~~motor vehicles if issuance is necessary for the enforcement of this title or if the list or information~~  
23 ~~is needed to protect the public safety and welfare. In addition, any motor vehicle title or~~  
24 ~~registration list maintained by the department may be made available to the public for a~~

1 ~~reasonable fee. State agencies are exempt from payment of this fee for approved state use. The~~  
2 ~~lists may not be resold. The secretary may promulgate rules pursuant to chapter 1-26 to establish~~  
3 ~~criteria for the sale and to establish the fee for the sale of such lists.~~

4 Section 10. That chapter 32-5 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 For the purpose of license renewal, any person in possession of a motor vehicle title or  
7 license renewal certificate provided by the state or the county may renew the vehicle's  
8 registration on behalf of the owner. Presentation of the motor vehicle title or license renewal  
9 certificate by anyone other than the owner is deemed consent of the vehicle owner. Any person  
10 who knowingly misrepresents or makes any false statement for license renewal is guilty of a  
11 Class 1 misdemeanor.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

400E0240

## SENATE APPROPRIATIONS COMMITTEE ENGROSSED NO. **HB 1068** - 02/27/2001

Introduced by: The Committee on Appropriations at the request of the Board of Regents

1 FOR AN ACT ENTITLED, An Act to authorize the South Dakota Building Authority and the  
2 Board of Regents to implement the long-term capital project request of the Board of  
3 Regents, providing for the construction, remodeling, or renovation of various structures on  
4 the campuses of the state's universities and to make appropriations therefor.

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

6 Section 1. It is in the public interest that the South Dakota Building Authority contract for  
7 the construction, completion, furnishing, equipping, and maintaining of, including heating, air  
8 conditioning, plumbing, water, sewer, electric facilities, architectural and engineering services,  
9 asbestos abatement, removal of existing roofing and structures, and such other services as may  
10 be required to accomplish the projects enumerated in section 3 of this Act, all at the estimated  
11 cost of seventy-one million seven hundred ninety-one thousand dollars. The South Dakota  
12 Building Authority may finance up to thirty-eight million three hundred forty-one thousand  
13 dollars of the construction costs through the issuance of revenue bonds, in accordance with this  
14 Act and chapter 5-12.

15 Section 2. In addition to those projects approved in section 1 of this Act, the Board of

1 Regents may contract for the construction, completion, furnishing, equipping, and maintaining  
2 of, including heating, air conditioning, plumbing, water, sewer, electric facilities, architectural  
3 and engineering services, asbestos abatement, removal of existing roofing and structures, and  
4 such other services as may be required to accomplish the projects enumerated in section 4 of this  
5 Act, all at the estimated cost of thirty million two hundred seventy thousand dollars.

6 Section 3. The projects authorized in section 1 of this Act, to be financed through the  
7 issuance of revenue bonds by the South Dakota Building Authority, include the following:

- 8 (1) The Cook classroom renovation or replacement space at Black Hills State University  
9 in Spearfish, South Dakota, for an estimated cost of eight million two hundred fifty  
10 thousand dollars provided that, in no event, may the building authority issue bonds for  
11 more than two million five hundred thousand dollars, for the Cook classroom  
12 renovation or replacement space;
- 13 (2) The technology classroom building renovation or replacement space at Dakota State  
14 University in Madison, South Dakota, for an estimated cost of two million five  
15 hundred thousand dollars;
- 16 (3) The library remodeling at the South Dakota School of Mines and Technology in  
17 Rapid City, South Dakota, for an estimated cost of eight hundred eighty-one thousand  
18 dollars;
- 19 (4) The primary electrical distribution system upgrade at the South Dakota School of  
20 Mines and Technology in Rapid City, South Dakota, for an estimated cost of seven  
21 hundred eighty-four thousand dollars;
- 22 (5) The mechanical building air conditioning project at the South Dakota School of Mines  
23 and Technology in Rapid City, South Dakota, for an estimated cost of three hundred  
24 seventy-six thousand dollars;

- 1       (6)    The Seymour Hall – Technology Center remodeling or replacement space at Northern  
2            State University in Aberdeen, South Dakota, for an estimated cost of three million  
3            five hundred thousand dollars;
- 4       (7)    The Mewaldt–Jensen Classroom Building renovation at Northern State University in  
5            Aberdeen, South Dakota, for an estimated cost of three million five hundred thousand  
6            dollars;
- 7       (8)    The Lee Medicine and Science Hall renovation or replacement space at the University  
8            of South Dakota in Vermillion, South Dakota, for an estimated cost of thirty-two  
9            million dollars of which no more than twelve million five hundred thousand dollars  
10           may be financed through the issuance of revenue bonds; and
- 11      (9)    The Shepard Hall renovation or replacement space at the South Dakota State  
12            University in Brookings, South Dakota, for an estimated cost of twenty million dollars  
13            of which no more than eleven million eight hundred thousand dollars may be financed  
14            for the Shepard Hall renovation or replacement space through the issuance of revenue  
15            bonds;

16      Section 4. The projects authorized in section 2 of this Act include the following:

- 17      (1)    The Solberg Hall renovation at the South Dakota State University in Brookings,  
18            South Dakota, for an estimated cost of seven million five hundred seventy thousand  
19            dollars which may be undertaken as provided in section 5 of this Act;
- 20      (2)    The new business school at the University of South Dakota in Vermillion, South  
21            Dakota, for an estimated cost of twelve million eight hundred thousand dollars which  
22            may be funded from federal sources and private donations;
- 23      (3)    The Old Armory renovation at the University of South Dakota in Vermillion, South  
24            Dakota, for an estimated cost of two million two hundred thousand dollars which may

1 be funded from federal sources and private donations;

2 (4) The Al Neuharth Media Center renovation at the University of South Dakota in  
3 Vermillion, South Dakota, for an estimated cost of four million two hundred thousand  
4 dollars which may be funded from federal sources and private donations; and

5 (5) The Slagle Auditorium renovation at the University of South Dakota in Vermillion,  
6 South Dakota, for an estimated cost of three million five hundred thousand dollars  
7 which may be funded from federal sources and private donations.

8 Section 5. The Board of Regents may lease Solberg Hall, and such portions of its  
9 surrounding grounds as may be needed to conduct renovation activities, to the South Dakota  
10 State University Foundation to permit the foundation to renovate the structure and to donate all  
11 improvements to the State of South Dakota for the use and benefit of South Dakota State  
12 University. The Board of Regents may accept such donation if all improvements are designed  
13 and specified in accordance with the requirements stated in §§ 5-14-11 to 5-14-13, inclusive; if  
14 all plans, specifications, and construction documents are delivered to the Board of Regents in the  
15 formats that the State Engineer requires for the keeping of such records; and if the foundation  
16 secures the approval of a building committee appointed by the Board of Regents for the project  
17 as provided in § 5-14-3 for the initial designs, plans, and specifications, and for any subsequent  
18 modifications of the same that may affect the use, operating costs or long-term maintenance of  
19 the renovated facility.

20 Section 6. There is hereby appropriated to the Board of Regents six hundred fifty-nine  
21 thousand two hundred forty dollars, or so much thereof as may be needed, to construct an  
22 addition to the Donald E. Young Sports and Fitness Center. The monies appropriated by this Act  
23 shall include one hundred fifty thousand dollars from other funds appropriated to Black Hills  
24 State University and five hundred nine thousand two hundred forty dollars from monies available

1 to the South Dakota National Guard.

2 Section 7. There is hereby appropriated from the higher education facilities fund established  
3 in § 13-51-2 the sum of five million seven hundred fifty thousand dollars for the Cook classroom  
4 renovation or replacement space.

5 Section 8. The authorizations granted under section 1 of this Act, and all necessary  
6 appropriations required to finance and to complete such projects, remain effective through  
7 June 30, 2009. However, no bonds may be issued under the authority of this Act if such issuance  
8 would violate the restriction established in § 13-51-2.

9 Section 9. The authorizations granted under section 2 of this Act, and all necessary  
10 appropriations required to finance and to complete such projects, remain effective through  
11 June 30, 2013.

12 Section 10. All cost estimates contained in this Act have been stated in terms of 2001 values.  
13 The Board of Regents may adjust such cost estimates to reflect inflation as measured by the  
14 Building Cost Index reported by the Engineering News Record. The limitations on the amount  
15 of bonded indebtedness stated in section 3 of this Act are not subject to such adjustment.

16 Section 11. No indebtedness, bond, or obligation incurred or created under the authority of  
17 this Act may be or may become a lien, charge, or liability against the State of South Dakota, nor  
18 against the property or funds of the State of South Dakota within the meaning of the  
19 Constitution or statutes of the state.

20 Section 12. The Building Authority and the Board of Regents may accept, transfer, and  
21 expend any funds obtained for these purposes from federal sources, gifts, contributions, or any  
22 other source, all of which shall be deemed appropriated to the project authorized by this Act.

23 Section 13. The administration of the design and construction of the projects authorized in  
24 sections 3 and 4 of this Act shall be under the general charge and supervision of the Bureau of

1 Administration as provided in chapter 5-14, except as otherwise provided in section 5 of this Act.  
2 The executive director of the Board of Regents and the executive secretary of the Building  
3 Authority, or their designees, shall approve vouchers and the state auditor shall draw warrants  
4 to pay expenditures authorized by section 3 of this Act. The executive director of the Board of  
5 Regents, or a designee, shall approve vouchers and the state auditor shall draw warrants to pay  
6 expenditures authorized by section 4 of this Act, except as otherwise provided in section 5 of this  
7 Act.

8 Section 14. The Board of Regents may make and enter into a lease agreement with the  
9 Building Authority and make rental payments under the terms thereof, pursuant to chapter 5-12,  
10 from the higher education facilities fund for the purposes of this Act.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

643E0452

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1106** - 02/26/2001

Introduced by: Representatives Napoli, Brown (Richard), Klaudt, Kooistra, McCoy, Michels, and Olson (Mel) and Senators Hainje, Brown (Arnold), Daugaard, de Hueck, Everist, Koetzle, Staggers, and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to revise the classes of investments available for state funds.

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

3 Section 1. That § 4-5-26 be amended to read as follows:

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

7 (1) Direct and indirect obligations of the United States government;

8 (2) Agencies and instrumentalities of the United States government;

9 (3) Direct obligations of the State of South Dakota and any of its political subdivisions;

10 (4) Obligations consisting of notes, bonds, debentures, and certificates which are direct  
11 obligations of a solvent corporation or trust existing under the laws of the United

12 States or any state thereof, ~~provided that~~ if such investments ~~shall be~~ are rated in the  
13 four highest classifications established by at least two standard rating services;

14 (5) Savings accounts, share accounts, certificates of deposit of banks, savings and loan

1 associations, building and loan associations, and bankers' acceptances;

2 (6) In addition to the investments authorized by subdivisions (1) to (5) of this section,  
3 inclusive, the investment council may also allocate a sum certain of state public funds  
4 for investment in the accounts and certificates of South Dakota banks and  
5 associations. This sum shall initially be offered to South Dakota banks and  
6 associations, and if not initially fully subscribed, the investment officer shall  
7 immediately reoffer the unsubscribed sum to other qualified public depositories  
8 defined by subdivision 4-6A-1(7).

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

704E0214

SENATE APPROPRIATIONS COMMITTEE

ENGROSSED NO. **HB 1142** - 02/27/2001

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

Introduced by: Representatives Kooistra, Elliott, Garnos, Glenski, Holbeck, Lange, and Olson (Mel) and Senator McIntyre

1 FOR AN ACT ENTITLED, An Act to appropriate money for Statewide E-Learning and to  
2 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 general fund the sum of one million three  
5 hundred fifty-one thousand one hundred twenty dollars (\$1,351,120), or so much thereof as may  
6 be necessary, to the Board of Regents for the Northern State University Center for Statewide  
7 E-Learning.

8 Section 2. The executive director of the Board of Regents shall approve vouchers and the  
9 state auditor shall draw warrants to pay expenditures authorized by this Act.

10 Section 3. Any amounts appropriated in this Act not lawfully expended or obligated by  
11 June 30, 2002, shall revert in accordance with § 4-8-21.

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

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

337E0252

## SENATE ENGROSSED NO. **HB 1144** - 02/28/2001

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

Introduced by: Representatives Kooistra, Garnos, and McCoy and Senator Stagers

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to child custody.

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

3 Section 1. That chapter 25-5 be amended by adding thereto a NEW SECTION to read as  
4 follows:

5 Any person entitled to custody or visitation of a child shall give notice of any proposed  
6 relocation of the residence of the child to another state or a distance greater than seventy miles.

7 The notice shall be in writing by certified mail, return receipt requested, to any party that has  
8 custody or visitation rights. Absent exigent circumstances as determined by a court with  
9 jurisdiction, written notice shall be provided at least sixty days before the proposed relocation.

10 The notice of the proposed relocation shall include the following information: the city and state  
11 to which the relocation is proposed, date of the intended move, reasons for moving, and a  
12 proposed visitation schedule.

13 The residence of the child may be relocated sixty days after providing notice, as required by  
14 this section, unless a party entitled to custody or visitation files a motion seeking an order to  
15 prevent the relocation within thirty days after receipt of such notice. An affidavit setting forth

1 the specific factual basis for prohibiting the relocation shall be attached to the motion. The  
2 person seeking the relocation shall respond to the motion within fourteen days, unless the court  
3 extends the response time for good cause, and provide a counter affidavit setting forth the facts  
4 in support of the relocation and the proposed revised parenting plan for the child.

5 If relocation is permitted, the court may order contact with the nonrelocating party including  
6 custody or visitation and telephone access sufficient to assure that the child has frequent,  
7 continuing, and meaningful contact with the nonrelocating party unless the child's best interest  
8 warrants otherwise.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

809E0569

## SENATE ENGROSSED NO. **HB 1203** - 02/26/2001

Introduced by: Representatives Richter, Bartling, Begalka, Bradford, Broderick, Brown (Jarvis), Brown (Richard), Burg, Clark, Duenwald, Elliott, Flowers, Frost, Fryslie, Gillespie, Hansen (Tom), Hanson (Gary), Hargens, Heineman, Hunhoff, Jaspers, Jensen, Juhnke, Klaudt, Kloucek, Konold, Lange, Lintz, Madsen, McCaulley, McCoy, Monroe, Murschel, Nachtigal, Nesselhuf, Olson (Mel), Pederson (Gordon), Peterson (Jim), Pitts, Pummel, Rhoden, Sebert, Sigdestad, Slaughter, Smidt, Solum, Sutton (Duane), Teupel, Valandra, Van Gerpen, and Van Norman and Senators Putnam, Albers, Apa, Bogue, Brosz, Brown (Arnold), Daugaard, de Hueck, Dennert, Diedrich (Larry), Diedrich (Elmer), Drake, Duxbury, Greenfield, Hainje, Hutmacher, Kleven, Koetzle, Koskan, Madden, McCracken, McIntyre, Moore, Munson, Olson (Ed), Reedy, Sutton (Dan), Symens, Vitter, and Volesky

1 FOR AN ACT ENTITLED, An Act to appropriate money for the Northern Crops Institute and  
2 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 general fund the sum of fifty thousand  
5 dollars (\$50,000), or so much thereof as may be necessary, to the Department of Agriculture for  
6 a grant to the Northern Crops Institute.

7 Section 2. The secretary of the Department of Agriculture shall approve vouchers and the  
8 state auditor shall draw warrants to pay expenditures authorized by this Act.

9 Section 3. Any amounts appropriated in this Act not lawfully expended or obligated by

1 June 30, 2002, shall revert in accordance with § 4-8-21.

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

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

841E0747

SENATE COMMERCE COMMITTEE ENGROSSED NO.

**HB 1218** - 02/23/2001

Introduced by: Representatives Derby and Peterson (Bill) and Senator Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to prohibit directed suretyship.

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

3 Section 1. No state, county, or municipal employee, and no person acting or purporting to  
4 act on behalf of such employee, or any state, county, or municipal agency, may, with respect to  
5 any public building or construction contract which is about to be or which has been competitively  
6 bid or negotiated, require the bidder to make application to or furnish financial data to any  
7 particular insurance or surety company or producer, or to obtain, or procure, any surety bond  
8 that is procured in any owner-controlled insurance program, or that is specified in connection  
9 with such contract or by law from any particular insurance or surety company or producer.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

451E0693

## SENATE ENGROSSED NO. **HB 1227** - 02/26/2001

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

Introduced by: Representatives Teupel, Derby, and Rhoden and Senators Apa and Kleven

1 FOR AN ACT ENTITLED, An Act to appropriate money to Black Hills Forest High School.

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

3 Section 1. There is hereby appropriated from the general fund the sum of one hundred  
4 thousand dollars (\$100,000), or so much thereof as may be necessary, to the Department of  
5 Education and Cultural Affairs for a one-time grant to Black Hills Forest High School as  
6 payment in lieu of average daily membership support via state aid to education.

7 Section 2. The secretary of the Department of Education and Cultural Affairs shall approve  
8 vouchers and the state auditor shall draw warrants to pay expenditures authorized by this Act.

9 Section 3. Any amounts appropriated in this Act not lawfully expended or obligated by  
10 June 30, 2002, shall revert in accordance with § 4-8-21.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

654E0754

## SENATE ENGROSSED NO. **HB 1247** - 02/28/2001

Introduced by: Representatives Lintz, McCoy, Napoli, Pederson (Gordon), Rhoden, and Richter and Senators Vitter, Duxbury, Kleven, Putnam, and Reedy

1 FOR AN ACT ENTITLED, An Act to revise the requirements for volunteer firefighters to  
2 become eligible for workers' compensation and to update a reference used to determine  
3 impairment.

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

5 Section 1. That § 62-1-5.2 be amended to read as follows:

6 62-1-5.2. Any firefighter who ~~has completed the wildland firefighter training course and is~~  
7 a member of any county, municipal, special purpose district, or township fire department which  
8 has on file a cooperative fire suppression agreement with the South Dakota Department of  
9 Agriculture, and has been approved by the governing body for assignment to the state, is eligible  
10 for workers' compensation benefits from the state if injured during a period of time commencing  
11 from the time dispatched by the state forester until the time the firefighter returns to the location  
12 from which the firefighter was originally dispatched by the state forester. In the event of injury  
13 or death, the firefighter shall, for the purpose of computing compensation, be considered to be  
14 earning a wage that would entitle that person to the maximum compensation for death or injury  
15 allowable under this title; but in no event may payments to any firefighter exceed the maximum

1 limitations for benefits as set out in this title.

2 For purposes of determining compensation any remuneration received by a member who  
3 voluntarily serves the department may not be considered.

4 No firefighter under this section may be deemed a state employee for any purpose other than  
5 eligibility to receive workers' compensation from the state under this section.

6 Section 2. That § 62-1-1.2 be amended to read as follows:

7 62-1-1.2. For the purposes of this chapter, impairment shall be determined by a medical  
8 impairment rating, expressed as a percentage to the affected body part, using the Guides to the  
9 Evaluation of Permanent Impairment established by the American Medical Association, ~~fourth~~  
10 fifth edition, ~~June 1993~~ November 2000.

11 Section 3. That § 62-7-39 be amended to read as follows:

12 62-7-39. An employee, employer, employer's insurer, or self-insured employer ~~shall be~~  
13 ~~permitted to~~ may use the results of post-offer base line testing or a functional capacity  
14 assessment, as utilized by ~~Guidelines~~ Guides to the Evaluation of Permanent Impairment  
15 established by the American Medical Association, ~~fourth~~ fifth edition, ~~June 1993~~ November  
16 2000, performed during the course of employment, or other medical evidence of impairment for  
17 the purpose of determining permanent partial or permanent total disability compensation due to  
18 an employee.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

472E0638

SENATE COMMERCE COMMITTEE ENGROSSED NO.

**HB 1253** - 02/23/2001

Introduced by: Representatives Begalka, Fryslie, Jaspers, Konold, Lange, and Pummel and  
Senators Koskan, Brosz, Brown (Arnold), Greenfield, and Moore

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding dealer franchises and  
2 to include outdoor power equipment.

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

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

5 37-5-5. If any person, firm, or corporation, or their successors, engaged in the business of  
6 selling and retailing farm implements or machinery and repair parts for farm implements or  
7 machinery, or in the business of selling and retailing industrial and construction equipment and  
8 repair parts for industrial and construction equipment, or in the business of selling and retailing  
9 outdoor power equipment and repair parts for outdoor power equipment, or in the business of  
10 selling and retailing office furniture, equipment, and supplies and repair parts for office furniture,  
11 equipment, and supplies, or in the business of selling and retailing automobiles, trucks,  
12 motorcycles, boats, personal watercraft, all-terrain vehicles, or snowmobiles or repair parts for  
13 automobiles, trucks, motorcycles, boats, personal watercraft, all-terrain vehicles, or snowmobiles  
14 enters into a written contract evidenced by franchised agreement, sales agreement, dealer

1 agreement, or security agreement, or other form of agreement or arrangement of like effect, the  
2 term, contract, as used in §§ 37-5-5 to 37-5-9, inclusive, means any of the foregoing and their  
3 successors. If such person, firm, or corporation, or their successors maintains a stock of parts  
4 or complete or whole machines, or attachments with any wholesaler, manufacturer, or distributor  
5 of farm implements or machinery or repair parts therefor, or industrial and construction  
6 equipment or repair parts therefor, or outdoor power equipment or repair parts therefor, or  
7 office furniture, equipment, and supplies or repair parts therefor, or automobiles, trucks,  
8 motorcycles, boats, personal watercraft, all-terrain vehicles, or snowmobiles, or repair parts  
9 therefor, and either the wholesaler, manufacturer, or distributor, or their successors, or the  
10 retailer, or successor, desires to cancel or discontinue the contract, such wholesaler,  
11 manufacturer, or distributor, or successor, shall pay to the retailer, or successor, unless the  
12 retailer, or successor, should desire to keep the merchandise, a sum equal to one hundred percent  
13 of the net cost of all current unused complete farm implements, machinery and attachments,  
14 industrial and construction equipment and attachments, outdoor power equipment and  
15 attachments, office furniture, equipment, and supplies, and attachments, and automobiles, trucks,  
16 motorcycles, boats, personal watercraft, all-terrain vehicles, and snowmobiles, including  
17 transportation and reasonable assembly charges which have been paid by the retailer and ~~eighty-~~  
18 ~~five~~ ninety-five percent of the current net prices on repair parts, including superseded parts, listed  
19 in a current price list or catalog which parts had previously been purchased from the wholesaler,  
20 manufacturer, or distributor, or predecessor, and held by the retailer on the date of the  
21 cancellation or discontinuance of the contract. The wholesaler, manufacturer, or distributor, or  
22 successor, shall also pay the retailer a sum equal to five percent of the current net price of all  
23 parts returned for the handling, packing, and loading of the parts back to the wholesaler,  
24 manufacturer, or distributor. Upon the payment of the sum equal to one hundred percent of the

1 net cost of the farm implements, machinery and attachments, industrial and construction  
2 equipment and attachments, outdoor power equipment and attachments, office furniture,  
3 equipment, and supplies, and attachments, and automobiles, trucks, motorcycles, boats, personal  
4 watercraft, all-terrain vehicles, and snowmobiles, plus transportation and reasonable assembly  
5 charges and ~~eighty-five~~ ninety-five percent of the current net prices on repair parts, plus five  
6 percent handling and loading costs on repair parts only, plus freight charges which have been  
7 paid by the retailer, or automobiles, trucks, motorcycles, boats, personal watercraft, all-terrain  
8 vehicles, or snowmobiles, plus freight charges, or repair parts therefor, plus five percent handling  
9 and loading costs on repair parts only, the title to the farm implements, farm machinery, industrial  
10 and construction equipment, outdoor power equipment, office furniture, equipment, and  
11 supplies, and repair parts, or automobiles, trucks, motorcycles, boats, personal watercraft,  
12 all-terrain vehicles, or snowmobiles, or parts therefor, shall pass to the manufacturer, wholesaler,  
13 or distributor making the payment, and the manufacturer, wholesaler, or distributor, is entitled  
14 to the possession of the farm implements, industrial and construction equipment, outdoor power  
15 equipment, office furniture, equipment, and supplies, or automobiles, trucks, motorcycles, boats,  
16 personal watercraft, all-terrain vehicles, or snowmobiles, or repair parts therefor.

17 Section 2. That chapter 37-5 be amended by adding thereto a NEW SECTION to read as  
18 follows:

19 A wholesaler, manufacturer, or distributor shall also repurchase from the retailer and the  
20 retailer shall sell any specialized computer hardware or software, specialized tool, or signage  
21 which the wholesaler, manufacturer, or distributor required the retailer to purchase or lease as  
22 part of the retail agreement. Upon delivery to the wholesaler, manufacturer, or distributor of any  
23 such specialized computer hardware or software, tool, or signage, the wholesaler, manufacturer,  
24 or distributor shall pay to the retailer:

- 1 (1) For such computer hardware and software specifically required by the wholesaler,  
2 manufacturer, or distributor purchased within the last five years, the net cost less  
3 twenty percent per year depreciation. For purposes of this subdivision, the term,  
4 software, means software that is sourced from the wholesaler, manufacturer, or  
5 distributor, or its approved vendor, to meet the minimum requirements of the  
6 wholesaler, manufacturer, or distributor;
- 7 (2) For current logoed signage constituting the principal outdoor signage required by the  
8 wholesaler, manufacturer, or distributor, identifying the retailer as its representative,  
9 the original net cost to the dealer less fifteen percent per year, but in no case less than  
10 twenty percent of the original net cost to the dealer;
- 11 (3) For any specialized diagnostic or repair tool required by the wholesaler, manufacturer,  
12 or distributor which is unique to the product line and in complete, usable condition,  
13 seventy-five percent of the original net cost to the dealer if within ten years of  
14 purchase by the retailer, provided that new, unused specialized repair tools applicable  
15 to the products of the wholesaler, manufacturer, or distributor shall be purchased at  
16 one hundred percent of the original net cost to the dealer.

17 Section 3. That § 37-5-7 be amended to read as follows:

18 37-5-7. The prices of farm implements, machinery, and repair parts therefor, and of industrial  
19 and construction equipment and repair parts therefor, and outdoor power equipment and repair  
20 parts thereof, and of office furniture, equipment, and supplies and repair parts therefor, and of  
21 automobiles, trucks, motorcycles, boats, personal watercraft, all-terrain vehicles, or  
22 snowmobiles, and repair parts therefor, required to be paid to any retail dealer as provided in  
23 § 37-5-5, shall be determined by taking one hundred percent of the net cost on farm implements,  
24 machinery, and attachments, industrial and construction equipment; and attachments, outdoor

1 power equipment and attachments, office furniture, equipment, and supplies; and attachments,  
2 automobiles, trucks, motorcycles, boats, personal watercraft, all-terrain vehicles, and  
3 snowmobiles, and ~~eighty-five~~ ninety-five percent of the current net price of repair parts therefor  
4 as shown upon the manufacturer's, wholesaler's, or distributor's price lists or catalogues in effect  
5 at the time the contract is canceled or discontinued and specialized computer hardware and  
6 software, specialized tools, or signage as specified in section 2 of this Act. For purposes of  
7 §§ 37-5-5 to 37-5-9, inclusive, if any retailer, of farm implements or machinery or repair parts  
8 therefor, industrial and construction equipment and repair parts therefor, and outdoor power  
9 equipment and repair parts therefor, has actual proof of purchase of any repair parts or other  
10 merchandise from any manufacturer, wholesaler, or distributor, or its predecessor, the repair  
11 parts even though not currently listed in any price list or catalog and all other merchandise,  
12 purchased within ten years of the dealership cancellation or termination shall be repurchased at  
13 the original purchase price.

14 Section 4. That § 37-5-7.1 be amended to read as follows:

15 37-5-7.1. The payments to be made to the retailer pursuant to §§ 37-5-5 to 37-5-9, inclusive,  
16 shall be made ~~not~~ no later than ~~six months~~ sixty days from the date the ~~contract is canceled or~~  
17 ~~discontinued~~; merchandise is received by the wholesaler, manufacturer, or distributor and shall  
18 be accompanied by a final detailed statement of account thereon.

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

20 37-5-8. If any manufacturer, wholesaler, or distributor of farm machinery, farm implements,  
21 and repair parts for farm machinery, and farm implements, or of industrial and construction  
22 equipment and repair parts for industrial and construction equipment, outdoor power equipment  
23 and repair parts for outdoor power equipment, or of office furniture, equipment, and supplies  
24 and repair parts for office furniture, equipment, and supplies, or of automobiles, trucks,

1 motorcycles, boats, personal watercraft, all-terrain vehicles, and snowmobiles, and repair parts  
2 therefor, or their successors, upon cancellation of a contract by either a retailer or a  
3 manufacturer, wholesaler, or distributor, or their successor, fails or refuses to make payment to  
4 the dealer as is required by § 37-5-5, or refuses to supply farm machinery, farm implements, and  
5 repair parts for farm machinery and farm implements, or industrial and construction equipment,  
6 and repair parts for industrial and construction equipment, outdoor power equipment and repair  
7 parts for outdoor power equipment, or of office furniture, equipment, and supplies and repair  
8 parts for office furniture, equipment, and supplies, or automobiles, trucks, motorcycles, boats,  
9 personal watercraft, all-terrain vehicles, or snowmobiles, or repair parts therefor, to any retailer  
10 of the products, who may have a retail sales contract dated after July 1, 1969, in the case of  
11 contracts covering farm machinery, implements and attachments or automobiles and trucks, or  
12 after July 1, 1970, in the case of contracts covering industrial and construction equipment and  
13 attachments, or after July 1, 2001, in the case of the contracts covering outdoor power  
14 equipment and attachments, or after July 1, 1995, in the case of contracts covering office  
15 furniture, equipment, and supplies, or after July 1, 1973, in the case of contracts covering  
16 motorcycles, or after July 1, 2000, in the case of contracts covering boats, personal watercraft,  
17 all-terrain vehicles, or snowmobiles, or a contract with no expiration date or a continuing  
18 contract in force or effect on July 1, 1969, in the case of contracts covering farm machinery,  
19 implements and attachments or automobiles and trucks, or in force and effect on July 1, 1970,  
20 in the case of contracts covering industrial and construction equipment and attachments, or in  
21 force and effect on July 1, 1995, in the case of contracts covering office furniture, equipment,  
22 and supplies, or in force and effect on July 1, 2001, in the case of the contracts covering outdoor  
23 power equipment and attachments, or in force and effect on July 1, 1973, in the case of contracts  
24 covering motorcycles, or after July 1, 2000, in the case of contracts covering boats, personal

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

12 Section 6. That § 37-5-9 be amended to read as follows:

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

1 attachments, and automobiles, trucks, motorcycles, boats, personal watercraft, all-terrain  
2 vehicles, and snowmobiles, including transportation and reasonable assembly charges which have  
3 been paid by the retailer, and ~~eighty-five~~ ninety-five percent of the current net prices on repair  
4 parts, including superseded parts, listed in current price lists or catalogues, plus a sum equal to  
5 five percent of the current net price of all parts returned for handling, packing, and loading of  
6 the parts, and any specialized computer hardware or software, specialized tool, or signage as  
7 specified in section 2 of this Act, unless the heir or heirs agree to continue to operate the retail  
8 dealership. If the heir or heirs do not agree to continue to operate the retail dealership, it is  
9 deemed a cancellation or discontinuance of contract by the retailer under the provisions of  
10 § 37-5-5, and as such the heir or heirs may exercise any rights and privileges under §§ 37-5-5  
11 to 37-5-9, inclusive.

12 Section 7. That § 37-5-9 be amended to read as follows:

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

1 and automobiles, trucks, motorcycles, boats, personal watercraft, all-terrain vehicles, and  
2 snowmobiles, including transportation and reasonable assembly charges which have been paid  
3 by the retailer, and ~~eighty-five~~ ninety-five percent of the current net prices on repair parts,  
4 including superseded parts, listed in current price lists or catalogues, plus a sum equal to five  
5 percent of the current net price of all parts returned for handling, packing, and loading of the  
6 parts any specialized computer hardware or software, specialized tool, or signage as specified  
7 in section 2 of this Act, unless the heir or heirs agree to continue to operate the retail dealership.  
8 If the heir or heirs do not agree to continue to operate the retail dealership, it is deemed a  
9 cancellation or discontinuance of contract by the retailer under the provisions of § 37-5-5, and  
10 as such the heir or heirs may exercise any rights and privileges under §§ 37-5-5 to 37-5-9,  
11 inclusive.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

145E0792

## SENATE ENGROSSED NO. **HB 1294** - 02/26/2001

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 an additional three hundred dollars per average daily membership as defined  
6 in § 13-13-10.1, up to a maximum of four hundred average daily membership from each school  
7 district or partial school district as it existed prior to consolidation for the first year after  
8 consolidation. If two or more school districts consolidate after July 1, 2001, the new school  
9 district is entitled to an additional two hundred dollars per average daily membership as defined  
10 in § 13-13-10.1, up to a maximum of four hundred average daily membership from each school  
11 district or partial school district as it existed prior to consolidation for the second year after  
12 consolidation. If two or more school districts consolidate after July 1, 2001, the new school  
13 district is entitled to an additional one hundred dollars per average daily membership as defined  
14 in § 13-13-10.1, up to a maximum of four hundred average daily membership from each school  
15 district or partial school district as it existed prior to consolidation for the third year after

1 consolidation.

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

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

5 Section 4. The restriction on transfers imposed by § 13-16-26.2 does not apply to any money  
6 received by a school district under the provisions of this Act.

7 Section 5. The Department of Education and Cultural Affairs may promulgate rules pursuant  
8 to chapter 1-26 to implement the provisions of this Act.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

444E0782

## SENATE ENGROSSED NO. **HB 1295** - 02/27/2001

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

Introduced by: Representatives Derby and Brown (Richard) and Senator Hutmacher

1 FOR AN ACT ENTITLED, An Act to allow certain interstate shipments of wine.

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

3 Section 1. Notwithstanding any other provision of law, any person who is at least twenty-one  
4 years of age may purchase and receive wine from another state as provided in this section if the  
5 wine is not in distribution in this state and a reciprocal agreement exists between this state and  
6 the state from which the wine is sent. The person shall place an order with a licensee as defined  
7 in subdivision 35-4-2(3) or (5) on a form prescribed by the Department of Revenue. The licensee  
8 shall order the wine through a wholesaler licensed pursuant to subdivision 35-4-2(2) and the  
9 wholesaler shall arrange the purchase of the wine. The licensee shall inform the purchaser of the  
10 cost of the wine, the amount of any tax that would apply to the purchase pursuant to § 35-5-3,  
11 the amount of sales tax that would apply to the purchase, and the amount of any charges for  
12 freight and handling. The licensee may order the wine and shall provide the wine to the purchaser  
13 on receipt of payment for the cost of the wine and the taxes and freight and handling charges  
14 associated with the purchase. Wine purchased pursuant to this Act may only be delivered and  
15 received by the purchaser from a licensee as defined in subdivision 35-4-2(3) or (5). If the

1 wholesaler orders twelve or less cases of a particular brand of wine in one calendar year pursuant  
2 to this section, no registration fee pursuant to chapter 39-13 may be imposed. No person may  
3 receive more than twelve cases of wine, containing no more than nine liters per case, in any  
4 calendar year for personal use from another state under this Act. No person who receives wine  
5 under this Act may resell any of the wine. However, if the delivery of the wine does not result  
6 in a completed sale to the person who placed the original order, the licensee or wholesaler may  
7 sell the wine in the ordinary course of business. It is a Class 2 misdemeanor for any person to  
8 receive more than twelve cases of wine during a calendar year in violation of this section. It is  
9 a Class 2 misdemeanor for any person to resell or attempt to resell any wine obtained pursuant  
10 to this section. The Department of Revenue shall promulgate rules pursuant to chapter 1-26 to  
11 provide for the reporting and tracking of information related to the sale of wine under this Act  
12 and to prescribe forms for the implementation of this Act.

13 Section 2. Any South Dakota licensee who holds a South Dakota license pursuant to § 35-  
14 12-2 may ship no more than twelve cases of wine per shipment. A case may contain no more  
15 than nine liters per case in any one shipment. Any wine sold may only be for personal use and  
16 not for resale. The wine may only be sold directly to a resident of another state if the state to  
17 which the wine is sent allows residents of the state to receive wine sent from outside that state.  
18 For tax purposes, the sale is considered to have occurred in this state.

19 Section 3. Any container of wine being shipped into or out of this state shall be clearly  
20 labeled to indicate that it contains alcoholic beverages and that it may not be delivered to a  
21 person who is not at least twenty-one years of age or to a person who is visibly intoxicated.

22 Section 4. Notwithstanding any other provision of law, any licensee who holds a valid license  
23 in another state for the retail sale of wine for consumption off the licensed premise is permitted  
24 to ship wine directly to any person in this state for personal use if such person purchases the wine

1 while physically present at the licensed premise and the licensee has verified that the person  
2 purchasing the wine is of age. No licensee may ship more than twelve cases of wine in any  
3 calendar year to a person in this state and no case may contain more than nine liters of wine. For  
4 tax purposes, any sale of wine pursuant to this section is considered to have occurred in the state  
5 where the licensee is located.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

708E0621

## HOUSE ENGROSSED NO. **SB 209** - 02/22/2001

Introduced by: Senators Olson (Ed), Diedrich (Elmer), and Sutton (Dan) and  
Representatives Brown (Richard), Derby, Flowers, Jaspers, and Sebert

1 FOR AN ACT ENTITLED, An Act to permit certain businesses to remit sales and use tax after  
2 the machinery is under production.

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

4 Section 1. That § 10-45-27 be amended to read as follows:

5 10-45-27. Any person who is the holder of a sales tax permit or is a retailer whose receipts  
6 are subject to sales tax in this state during the periods specified by this section shall make a return  
7 and remittance to the Department of Revenue on forms prescribed and furnished by the  
8 department in the following manner:

9 (1) Any person whose tax liability is one thousand dollars or more annually, shall file the  
10 return and remit the tax on or before the twentieth day of the month following each  
11 monthly period;

12 (2) Any person whose tax liability is less than one thousand dollars annually, shall file the  
13 return and remit the tax on or before the last day of the month following each  
14 two-month period;

15 (3) Any person whose tax liability is one thousand dollars or more annually and who

1           remits the tax by electronic transfer to the state, shall file the return by electronic  
2           means on or before the twenty-third day of the month following each monthly period  
3           and remit the tax on or before the second to the last day of the month following each  
4           monthly period.

5           The secretary of revenue may grant an extension of not more than five days for filing a return  
6           and remittance. However, the secretary of revenue may grant an extension for remitting the tax  
7           to a qualified business as provided in sections 2 to 10, inclusive, of this Act for six months.

8           Unless an extension is granted, penalty or interest under § 10-59-6 shall be paid if a return  
9           or remittance is not made on time.

10          Section 2. Terms used in this Act mean:

- 11          (1) "Department," the Department of Revenue;
- 12          (2) "Business," a business that has purchased and is installing tangible personal property  
13               in the form of equipment or machinery for direct use in an electrical generation,  
14               electrical transmission, digital television broadcast, manufacturing, fabricating, or  
15               processing business, which is subject to sales or use tax pursuant to chapter 10-45 or  
16               10-46;
- 17          (3) "Project," the purchase and installation of equipment or machinery;
- 18          (4) "Project cost," the amount paid in money for a project;
- 19          (5) "Secretary," the secretary of the Department of Revenue.

20          Section 3. Any electrical generation, electrical transmission, digital television broadcast,  
21          manufacturing, fabricating, or processing business may apply for and obtain an extension for  
22          remitting the sales and use tax imposed and due under the provisions of chapter 10-45 or 10-46  
23          for equipment or machinery that will be for direct use in an electrical generation, electrical  
24          transmission, digital television broadcast, manufacturing, fabricating, or processing business. The

1 extension shall end after six months.

2 Section 4. The extension pertains only to equipment and machinery purchased and installed  
3 after July 1, 2001. No extension may be made unless:

4 (1) The project cost exceeds twenty thousand dollars; and

5 (2) The business applying for the extension obtains a permit from the secretary as set  
6 forth in section 6 of this Act.

7 Section 5. The amount of the tax extension shall apply to one hundred percent of the  
8 equipment and machinery costs and installation fees.

9 Section 6. Any business desiring an extension pursuant to this Act shall apply for a permit  
10 from the secretary at least thirty days prior to commencement of the project. The application for  
11 a permit shall be submitted on a form prescribed by the secretary. A separate application shall  
12 be made and submitted for each project. Upon approval of the application, the secretary shall  
13 issue a permit entitling the applicant to an extension as provided by this Act. The permit or  
14 extension is not assignable or transferable.

15 Section 7. Any extension shall be submitted on forms prescribed by the secretary and shall  
16 be supported by such documentation as the secretary may require. The secretary may deny any  
17 extension where the business has failed to provide information or documentation requested or  
18 considered necessary by the secretary to determine the validity of the extension.

19 Section 8. If any extension has been fraudulently presented or supported as to any item in the  
20 claim, or if the business fails to meet all the conditions of this Act, then the business may be  
21 rejected in its entirety and any tax due from the business shall constitute a debt to the state and  
22 a lien in favor of the state upon all property and rights to property whether real or personal  
23 belonging to the business and may be recovered in an action of debt.

24 Section 9. Any business aggrieved by the denial in whole or in part of a extension requested

1 under this Act, may within thirty days after service of the notice of a denial by the secretary,  
2 demand and is entitled to a hearing, upon notice, before the secretary. The hearing shall be  
3 conducted pursuant to chapter 1-26.

4 Section 10. The secretary may promulgate rules, pursuant to chapter 1-26, concerning the  
5 procedures for filing extensions and the requirements necessary to qualify for an extension.