

# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

381J0464

## HOUSE ENGROSSED NO. **HB 1175** - 02/03/2004

Introduced by: Representatives Madsen, Cutler, Haverly, Michels, and O'Brien and Senators Earley, Bogue, McCracken, Olson (Ed), and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to establish the brownfields revitalization and economic  
2 development program and to provide for the continuous appropriation of certain federal  
3 funds.

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

5 Section 1. That chapter 46A-1 be amended by adding thereto a NEW SECTION to read as  
6 follows:

7 Terms used in this Act mean:

- 8 (1) "Brownfields revitalization and economic development program," a program to  
9 provide funding to assist in the assessment, cleanup, and redevelopment of  
10 brownfields sites;
- 11 (2) "Brownfields site," real property, the expansion, redevelopment, economic  
12 development, or reuse of which may be complicated by the presence or potential  
13 presence of a hazardous substance, pollutant, or contaminant;
- 14 (3) "Petroleum," petroleum substances, oil, gasoline, kerosene, fuel oil, oil sludge, oil  
15 refuse, oil mixed with other wastes, crude oils, substances, or additives to be utilized



1 in the refining or blending of crude petroleum or petroleum stock, and any other oil  
2 or petroleum substance;

3 (4) "Petroleum contaminated site," a site contaminated by petroleum; and

4 (5) "Real property," residential, commercial, or industrial properties.

5 Section 2. That chapter 46A-1 be amended by adding thereto a NEW SECTION to read as  
6 follows:

7 The state brownfields revitalization and economic development program is hereby  
8 established. A brownfields revolving loan subfund and a brownfields assessment and cleanup  
9 subfund are created within the water and environment fund established pursuant to § 46A-1-60.  
10 The subfunds shall be maintained separately; and all money for use in the program shall be  
11 deposited into the subfunds, including the nonadministrative portion of all federal brownfields  
12 revitalization program grants, all repayments of assistance awarded from the subfunds, interest  
13 on investments made on money in the subfunds, proceeds of discretionary bond issues allowed  
14 by § 46A-1-31, and principal and interest on loans made from the subfunds. Money in the  
15 subfunds may be used only for purposes authorized under federal law. The subfunds may be  
16 pledged or assigned by the district to or in trust for the holders of the bonds of the district and  
17 may be transferred to and held by a trustee or trustees pursuant to § 46A-1-39.

18 Section 3. That chapter 46A-1 be amended by adding thereto a NEW SECTION to read as  
19 follows:

20 Money from the brownfields revitalization and economic development program subfunds  
21 shall be disbursed and administered according to rules promulgated by the Board of Water and  
22 Natural Resources pursuant to chapter 1-26, § 46A-1-65, and the provisions of this Act. The  
23 provisions of §§ 46A-1-61 to 46A-1-69, inclusive, do not apply to the brownfields  
24 revitalization and economic development program subfunds of the water and environment fund

1 or grants and loans from the subfunds made under the brownfields revitalization and economic  
2 development program described in sections 2 to 5 of this Act, inclusive.

3 Section 4. That chapter 46A-1 be amended by adding thereto a NEW SECTION to read as  
4 follows:

5 The Board of Water and Natural Resources shall promulgate rules pursuant to chapter 1-26  
6 to implement the provisions of this Act consistent with the requirements of federal law in order  
7 for an approved brownfields revitalization and economic development program to become  
8 eligible for grant funds from the United States Environmental Protection Agency. The rules  
9 shall include criteria and procedures for the selection of projects to receive funds from the  
10 brownfields revitalization and economic development program and for the administration of  
11 the program including the terms of settlement for program participants pursuant to § 34A-10-17.

12 Section 5. That chapter 46A-1 be amended by adding thereto a NEW SECTION to read as  
13 follows:

14 The brownfields revitalization and economic development program subfunds are hereby  
15 continuously appropriated to the South Dakota Board of Water and Natural Resources. Money  
16 received for these programs may be used only for purposes authorized by the federal Small  
17 Business Liability Relief and Brownfields Revitalization Act (P.L. 107-118) as amended to  
18 January 1, 2004.

19 Section 6. That chapter 46A-1 be amended by adding thereto a NEW SECTION to read as  
20 follows:

21 Any eligible entity may establish a brownfields program to prevent, assess, safely clean up,  
22 promote the economic development of, and sustainably reuse eligible brownfields sites as  
23 authorized in the Comprehensive Environmental Response, Compensation, and Liability Act  
24 of 1980, as amended to January 1, 2004, and in the Small Business Liability Relief and

1 Brownfields Revitalization Act, P.L. 107-118 as amended to January 1, 2004.

2 Section 7. That chapter 46A-1 be amended by adding thereto a NEW SECTION to read as  
3 follows:

4 Any eligible entity establishing a brownfields program may exercise all powers necessary  
5 or appropriate to carry out the purposes of this Act, including the following:

- 6 (1) To acquire by lease, purchase, gift, condemnation, or other lawful means and hold  
7 in its corporate name or use and control as provided by law both real and personal  
8 property and easements and rights-of-way within or without the corporate limits for  
9 all purposes authorized by this Act or necessary to the exercise of any power granted  
10 in this Act;
- 11 (2) To convey, sell, give, dispose of, or lease both the personal and real property of the  
12 municipality or county as provided by this Act;
- 13 (3) To exercise the power of eminent domain only as necessary to carry out its purposes  
14 and duties as provided in this Act;
- 15 (4) To borrow money and to issue certificates, warrants, general obligation bonds and  
16 non-ad valorem tax bonds for purposes of this Act;
- 17 (5) To accept funds, property, and services or other assistance, financial or otherwise,  
18 from federal, state, and other public and private sources to carry out the purposes of  
19 this Act;
- 20 (6) To contract or cooperate with any person, the state, or any political subdivision of the  
21 state, any federal agency, or any private or public entity to carry out the purposes of  
22 this Act;
- 23 (7) To plan, develop, construct, acquire, operate, clean, maintain, repair, alter, renovate,  
24 salvage, demolish, secure, abandon, consolidate, reclaim, or gather data and

1 information concerning any brownfields site, or any related development, structure,  
2 or facility necessary to carry out the purposes of this Act;

3 (8) To apply for available grant funds and other governmental and nongovernmental  
4 financing options to promote the cleanup, reuse, revitalization, and economic  
5 development of the property consistent with the purposes of this Act; and

6 (9) To do and perform all acts authorized in this Act and all other acts necessary and  
7 proper for carrying out and exercising the powers granted by this Act.