

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

367J0447

HOUSE BILL NO. 1296

Introduced by: Representatives Rhoden, Bartling, Begalka, Craddock, Deadrick (Thomas), Hargens, Juhnke, Lintz, McCaulley, McCoy, and Teupel and Senators Koskan, Duenwald, Kleven, and Napoli

1 FOR AN ACT ENTITLED, An Act to restrict, under certain circumstances, the alienation of
2 private real property to the federal government.

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

4 Section 1. No county register of deeds may record any instrument transferring the title to any
5 parcel of real property in that county from any person other than an entity of state or local
6 government to the federal government or any federal agency except as provided in this Act.

7 Section 2. If any person presents any instrument transferring the title to any parcel of real
8 property in that county from any person other than an entity of state or local government to the
9 federal government or any federal agency to the register of deeds for recordation, the register
10 of deeds shall forthwith notify the board of county commissioners and shall certify a copy of the
11 instrument to the board of county commissioners.

12 Section 3. The board of county commissioners shall hold a public hearing on the subject of
13 the transfer in the county courthouse within sixty days of notification pursuant to section 2 of
14 this Act. Prior to the public hearing, the board of county commissioners shall give timely and
15 effective notice of the meeting to the transferor, the transferee, the general public, and any other



1 party that the board may know to be interested in the property transfer.

2 Section 4. At the public meeting, the board of county commissioners shall solicit and
3 consider any relevant testimony concerning whether or not the property transfer is in the best
4 interest of the people of the county and surrounding affected areas including:

5 (1) Whether the property is to be used for its best and highest purpose;

6 (2) Whether the property transfer is likely to adversely impact the economy,
7 environment, or tax base;

8 (3) Whether the parties to the property transfer are open to expressions of public concern
9 and are responsive to such of those public concerns as may be reasonably,
10 economically, and effectively addressed; and

11 (4) Whether the loss of state or county sovereignty over the land subject to the property
12 transfer is in the broader public interest.

13 The board of county commissioners is entitled to consider the failure of either party to the
14 property transfer to appear at the public hearing as evidence that the transfer is not in the public
15 interest.

16 Section 5. If the board of county commissioners, by motion, finds that the property transfer
17 is in the public interest, the board shall release the register of deeds to record the transfer
18 instrument.

19 If the board of county commissioners, by motion, does not find that the property transfer is
20 in the public interest, the board shall direct the register of deeds that the transfer document may
21 not be recorded; or the board may, of its own accord, or at the request of any party, provide for
22 additional public hearings.

23 Section 6. The board of county commissioners shall, in performing its responsibilities
24 pursuant to this Act, strive in good faith to facilitate the public interest without undue

1 interference or delay.

2 Section 7. If the board of county commissioners does not find that the property transfer is
3 in the public interest, either the transferor or the transferee, or both, may appeal the decision of
4 the board of county commissioners to the Legislature. The Legislature may concede its explicit
5 authorization by legislative enactment.

6 Section 8. The provisions of section 1 of this Act do not apply:

- 7 (1) If the transfer is the result of an eminent domain proceeding; or
- 8 (2) If the transfer is a sale negotiated under threat of an eminent domain proceeding or
9 under circumstances in which acquisition of the property by an eminent domain
10 proceeding would be justified; or
- 11 (3) If the transfer involves less than twenty-five acres of unimproved land or less than
12 two hundred fifty thousand dollars worth of improved real estate; or
- 13 (4) If the transfer involves the trade of tracts of land of substantially equal value between
14 private and public ownership.