

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

400J0268

HOUSE APPROPRIATIONS COMMITTEE ENGROSSED

NO. **HB 1017** - 01/26/2004

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

1 FOR AN ACT ENTITLED, An Act to authorize the Board of Regents to construct a
2 multipurpose storage and processing facility for the foundation seed stock program and to
3 make an appropriation therefor.

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

5 Section 1. The Board of Regents may contract for the construction, completion, furnishing,
6 equipping, and maintaining of, including heating, air conditioning, plumbing, water, sewer,
7 electric facilities, architectural and engineering services, asbestos abatement, and such other
8 services as may be required to construct a multipurpose storage and processing facility for the
9 foundation seed stock program that operates on its campus, located at Brookings, in Brookings
10 County, in conjunction with the agricultural experiment station, at an estimated cost of two
11 hundred fifty thousand dollars.

12 Section 2. There is hereby appropriated two hundred fifty thousand dollars (\$250,000) from
13 the foundation seed stock division of the agricultural experiment station for the purpose of
14 constructing the facility described in section 1 of this Act.

15 Section 3. The Board of Regents may accept, transfer, and expend any funds obtained for



1 these purposes from federal sources, gifts, contributions, or any other source, all of which shall
2 be deemed appropriated to the project authorized by this Act.

3 Section 4. The design and construction of the facilities approved by this Act shall be under
4 the general supervision of the Bureau of Administration as provided in chapter 5-14.

5 Section 5. The commissioner of the Bureau of Administration and the executive director of
6 the Board of Regents shall approve vouchers and the state auditor shall draw warrants to pay
7 expenditures authorized by this Act.

8 Section 6. Notwithstanding the provisions of § 13-51-2, neither the educational facilities
9 fund, nor any money appropriated for statewide maintenance and repair, may be used to finance
10 the maintenance and repair of the facilities specified in this Act.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

400J0269 **HOUSE APPROPRIATIONS COMMITTEE ENGROSSED**
NO. HB 1018 - 01/26/2004

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

1 FOR AN ACT ENTITLED, An Act to authorize the Board of Regents to construct a student
2 wellness center at South Dakota State University and to make an appropriation therefor.

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

4 Section 1. The Board of Regents may contract for the construction, completion, furnishing,
5 equipping, and maintaining of a student wellness center at South Dakota State University,
6 including utilities, furnishings, architectural and engineering services, site preparation, and
7 landscaping, at an estimated cost not to exceed five million dollars to be paid from student fees
8 and from gifts and grants to South Dakota State University specifically for this purpose.

9 Section 2. The Board of Regents may accept, transfer, and expend any funds obtained for
10 these purposes from federal sources, gifts, contributions, or any other source, all of which shall
11 be deemed appropriated to the project authorized by this Act.

12 Section 3. The design and construction of the facilities approved by this Act shall be under
13 the general supervision of the Bureau of Administration as provided in chapter 5-14.

14 Section 4. The commissioner of the Bureau of Administration and the executive director of
15 the Board of Regents shall approve vouchers and the state auditor shall draw warrants to pay



1 expenditures authorized by this Act.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

400J0333 **HOUSE APPROPRIATIONS COMMITTEE ENGROSSED**
NO. HB 1031 - 01/26/2004

Introduced by: The Committee on Appropriations at the request of the Bureau of Finance and
Management

1 FOR AN ACT ENTITLED, An Act to revise the General Appropriations Act for fiscal year
2 2004 to provide for fiscal relief received from the Jobs and Growth Tax Relief
3 Reconciliation Act of 2003.

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

5 Section 1. That section 7 of chapter 2 of the 2003 Session Laws be amended to read as
6 follows:

7 DEPARTMENT OF SOCIAL SERVICES

8 Medical Services

9 Operating Expenses, delete "\$83,126,535" and insert "\$81,305,557"

10 Adjust all totals accordingly.

11 Section 2. That section 11 of chapter 2 of the 2003 Session Laws be amended to read as
12 follows:

13 DEPARTMENT OF EDUCATION

14 State Aid to General Education

15 Operating Expenses, delete "\$268,151,418" and insert "\$218,151,418"



1 Adjust all totals accordingly.

2 Section 3. That section 15 of chapter 2 of the 2003 Session laws be amended to read as
3 follows:

4 DEPARTMENT OF CORRECTIONS

5 Juvenile Community Corrections

6 Operating Expenses, delete "\$7,268,439" and insert "\$6,942,053"

7 Adjust all totals accordingly.

8 Section 4. That section 16 of chapter 2 of the 2003 Session Laws be amended to read as
9 follows:

10 DEPARTMENT OF HUMAN SERVICES

11 Developmental Disabilities

12 Operating Expenses, delete "\$24,611,973" and insert "\$22,658,200"

13 South Dakota Developmental Center–Redfield

14 Personal Services, delete "\$5,313,143" and insert "\$4,851,117"

15 Operating Expenses, delete "\$1,740,880" and insert "\$1,628,822"

16 Rehabilitation Services

17 Operating Expenses, delete "\$2,720,897" and insert "\$2,646,233"

18 Human Services Center

19 Personal Services, delete "\$16,652,285" and insert "\$16,445,922"

20 Operating Expenses, delete "\$8,082,977" and insert "\$8,047,875"

21 Community Mental Health

22 Personal Services, delete "\$382,887" and insert "\$376,193"

23 Operating Expenses, delete "\$10,248,064" and insert "\$9,916,479"

24 Adjust all totals accordingly.

1 Section 5. This Act is effective June 15, 2004.

2 Section 6. It is the intent of section 1 of this Act to account for both the shortfall in the
3 medicaid program and for the reduction of general funds used due to the Jobs and Growth Tax
4 Relief Reconciliation Act of 2003. The detail to account for this is listed below:

5	Current Budget	\$83,126,535
6	HB 1029	\$10,989,679
7	HB 1031	(\$12,810,657)
8	New Total	\$81,305,557

9 Section 7. If both HB 1029 and HB 1031 pass, it is the intent of the Legislature that HB
10 1031 will have passed after HB 1029.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

455J0395

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1073** - 01/23/2004

Introduced by: The Committee on State Affairs at the request of the Public Utilities
Commission

1 FOR AN ACT ENTITLED, An Act to establish a consumer compensation and education fund
2 related to telecommunication services and to provide for expenditures from the fund.

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

4 Section 1. That chapter 49-31 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 The commission shall establish a consumer compensation fund. The fund shall be used to
7 compensate consumers who paid for telecommunications services that a telecommunications
8 company failed to provide or for consumer education. Any civil fines collected pursuant to
9 §§ 49-31-7.4, 49-31-38, and 49-31-38.1 shall be credited to the consumer compensation fund
10 which is hereby established in the state treasury. Any interest earned on money in the fund shall
11 be deposited in the fund. The money is continuously appropriated to the use of the commission
12 to compensate consumers or provide consumer education. The commission may promulgate
13 rules, pursuant to chapter 1-26, regarding procedures on how consumers may obtain
14 compensation from the fund and regarding methods for consumer education.



State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

925J0524

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1088 - 01/26/2004

Introduced by: Representatives Madsen, Gillespie, Olson (Mel), and Peterson (Bill) and
Senators Duniphan, Abdallah, Diedrich (Larry), Moore, and Symens

1 FOR AN ACT ENTITLED, An Act to provide for the certification of canine teams by the law
2 enforcement officers standards commission.

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

4 Section 1. That § 23-3-35 be amended to read as follows:

5 23-3-35. In addition to powers conferred upon the law enforcement officers standards
6 commission elsewhere in this chapter, the commission may:

7 (1) Promulgate rules ~~and regulations~~ for the administration of §§ 23-3-26 to 23-3-47,
8 inclusive, including the authority to require the submission of reports and information
9 by law enforcement agencies within this state;

10 (2) Establish minimum educational and training standards for admission to employment
11 as a law enforcement officer:

12 (a) In permanent positions; and

13 (b) In temporary or probationary status;

14 (3) Certify persons as being qualified under the provisions of §§ 23-3-26 to 23-3-47,
15 inclusive, to be law enforcement officers, and by rule to establish criteria and



1 procedure for the revocation or suspension of the certification of officers who have
2 been convicted of a felony or misdemeanor involving moral turpitude, have
3 intentionally falsified any application or document to achieve certification, or have
4 been discharged from employment for cause, or have engaged in conduct
5 unbecoming of a law enforcement officer;

6 (4) Establish minimum curriculum requirements for preparatory, in-service, and
7 advanced courses and programs for schools operated by or for the state or any
8 political subdivisions of the state for the specific purpose of training recruits or other
9 law enforcement officers;

10 (5) Consult and cooperate with counties, municipalities, agencies of this state, other
11 governmental agencies, and with universities, colleges, junior colleges, and other
12 institutions concerning the development of law enforcement training schools and
13 programs or courses of instruction;

14 (6) Approve institutions and facilities for school operation by or for the state or any
15 political subdivision of the state for the specific purpose of training law enforcement
16 officers and recruits;

17 (7) Make or encourage studies of any aspect of police administration;

18 (8) Conduct and stimulate research by public and private agencies which is designed to
19 improve police administration and law enforcement;

20 (9) Make recommendations concerning any matter within its purview pursuant to
21 §§ 23-3-26 to 23-3-47, inclusive;

22 (10) Make such evaluations as may be necessary to determine if governmental units are
23 complying with the provisions of §§ 23-3-26 to 23-3-47, inclusive;

24 (11) Adopt and amend bylaws, consistent with law, for its internal management and

1 control;

2 (12) Enter into contracts or do such things as may be necessary and incidental to the
3 administration of its authority pursuant to §§ 23-3-26 to 23-3-47, inclusive;

4 (13) License and regulate the activities of private or law enforcement polygraph and
5 computer voice stress analyzer examiners;

6 (14) Certify canine teams.

7 Section 2. That chapter 23-3 be amended by adding thereto a NEW SECTION to read as
8 follows:

9 Each law enforcement canine team in the state shall be initially certified and annually
10 recertified in one or more of the following specialties:

11 (1) The detection of the odors of drugs and controlled substances;

12 (2) The detection of the odors of explosive materials, explosive devices, and materials
13 which can be used to construct an explosive device;

14 (3) The detection of odors of any other substance or material which can be used with
15 criminal intent;

16 (4) Apprehension and search skills including tracking, building suspect search, article
17 recovery, evidence search, and suspect apprehension.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

165J0147

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1090** - 01/26/2004

Introduced by: Representatives Wick, Adelstein, Buckingham, Burg, Cutler, Fryslie, Novstrup, Peterson (Bill), Peterson (Jim), Schafer, Valandra, and Weems and Senators Schoenbeck, Albers, Apa, Brown, Dennert, Diedrich (Larry), and Moore

1 FOR AN ACT ENTITLED, An Act to provide for the payment of the difference in salary for
2 certain state employees who are called into active federal military service.

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

4 Section 1. Any employee of the State of South Dakota who, as a member of the South
5 Dakota National Guard or any other reserve component of the armed forces of the United States,
6 is ordered into Title 10 and Title 32 service, after January 1, 2002, other than for training
7 purposes, shall receive the difference between the employee's state salary or wage rate at the
8 time the employee was activated and the employee's military salary and allowances for the time
9 the employee is engaged in such active federal service. The salary or wage difference shall be
10 paid on at least a quarterly basis.



State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

781J0300

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1102 - 01/26/2004

Introduced by: The Committee on Judiciary at the request of the Chief Justice

1 FOR AN ACT ENTITLED, An Act to repeal and reestablish an Interstate Compact on
2 Juveniles.

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

4 Section 1. There continues in force a compact between this state and any other state or states
5 legally joining therein in the form substantially as follows:

6 INTERSTATE COMPACT ON JUVENILES

7 ARTICLE I, PURPOSE

8 The compacting states to this Interstate Compact recognize that each state is responsible for
9 the proper supervision or return of juveniles, delinquents, and status offenders who are on
10 probation or parole and who have absconded, escaped, or run away from supervision and control
11 and in so doing have endangered their own safety and the safety of others. The compacting
12 states also recognize that each state is responsible for the safe return of juveniles who have run
13 away from home and in doing so have left their state of residence. The compacting states also
14 recognize that Congress, by enacting the Crime Control Act, 4 U.S.C. Section 112 (1965), has
15 authorized and encouraged compacts for cooperative efforts and mutual assistance in the



1 prevention of crime. It is the purpose of this compact, through means of joint and cooperative
2 action among the compacting states: to ensure that the adjudicated juveniles and status offenders
3 subject to this compact are provided adequate supervision and services in the receiving state as
4 ordered by the adjudicating judge or parole authority in the sending state; to ensure that the
5 public safety interests of the citizens, including the victims of juvenile offenders, in both the
6 sending and receiving states are adequately protected; to return juveniles who have run away,
7 absconded, or escaped from supervision or control or have been accused of an offense to the
8 state requesting their return; to make contracts for the cooperative institutionalization in public
9 facilities in member states for delinquent youth needing special services; to provide for the
10 effective tracking and supervision of juveniles.

11 In addition, this compact will: equitably allocate the costs, benefits, and obligations of the
12 compacting states; establish procedures to manage the movement between states of juvenile
13 offenders released to the community under the jurisdiction of courts, juvenile departments, or
14 any other criminal or juvenile justice agency which has jurisdiction over juvenile offenders;
15 ensure immediate notice to jurisdictions where defined offenders are authorized to travel or to
16 relocate across the state lines; establish procedures to resolve pending charges (detainers)
17 against juvenile offenders prior to transfer or release to the community under the terms of this
18 compact; establish a system of uniform data collection on information pertaining to juveniles
19 subject to this compact that allows access by authorized juvenile justice and criminal justice
20 officials, and regular reporting of compact activities to heads of state executive, judicial, and
21 legislative branches and juvenile and criminal justice administrators; monitor compliance with
22 rules governing interstate movement of juveniles and initiate interventions to address and
23 correct noncompliance; to coordinate training and education regarding the regulation of
24 interstate movement of juveniles for officials involved in such activity; and coordinate the

1 implementation and operation of the compact with the Interstate Compact for the Placement of
2 Children, the Interstate Compact for Adult Offender Supervision, and other compacts affecting
3 juveniles particularly in those cases where concurrent or overlapping supervision issues arise.

4 It is the policy of the compacting states that the activities conducted by the Interstate
5 Commission created herein are the formation of public policies and therefore are public
6 business. Furthermore, the compacting states shall cooperate and observe their individual and
7 collective duties and responsibilities for the prompt return and acceptance of juveniles subject
8 to the provisions of this compact. The provisions of this compact shall be reasonably and
9 liberally construed to accomplish the purposes and policies of the compact.

10 ARTICLE II, DEFINITIONS

11 As used in this compact, unless the context clearly require a different construction:

- 12 (1) "By-laws" means those by-laws established by the Interstate Commission for its
13 governance, or for directing or controlling its actions or conduct;
- 14 (2) "Compact administrator" means the individual in each compacting state appointed
15 pursuant to the terms of this compact, responsible for the administration and
16 management of the state's supervision and transfer of juveniles subject to the terms
17 of this compact, the rules adopted by the Interstate Commission and policies adopted
18 by the state council under this compact;
- 19 (3) "Compacting state" means any state that has enacted the enabling legislation for this
20 compact;
- 21 (4) "Commissioner" means the voting representative of each compacting state appointed
22 pursuant to Article III of this compact;
- 23 (5) "Court" means any court having jurisdiction over delinquent, neglected, or dependent
24 children;

- 1 (6) "Deputy compact administrator" means the individual, if any, in each compacting
2 state appointed to act on behalf of a compact administrator pursuant to the terms of
3 this compact responsible for the administration and management of the state's
4 supervision and transfer of juveniles subject to the terms of this compact, the rules
5 adopted by the Interstate Commission and policies adopted by the state council under
6 this compact;
- 7 (7) "Interstate Commission" means the Interstate Commission for Juveniles created by
8 Article III of this compact;
- 9 (8) "Juvenile" means any person defined as a juvenile in any member state or by the rules
10 of the Interstate Commission, including
- 11 (a) Accused delinquent – a person charged with an offense that, if committed by
12 an adult, would be a criminal offense;
- 13 (b) Adjudicated delinquent – a person found to have committed an offense that,
14 if committed by an adult, would be a criminal offense;
- 15 (c) Accused status offender – a person charged with an offense that would not be
16 a criminal offense if committed by an adult;
- 17 (d) Adjudicated status offender – a person found to have committed an offense
18 that would not be a criminal offense if committed by an adult; and
- 19 (e) Nonoffender – a person in need of supervision who has not been accused or
20 adjudicated a status offender or delinquent.
- 21 (9) "Noncompacting state" means any state that has not enacted the enabling legislation
22 for this compact;
- 23 (10) "Probation or Parole" means any kind of supervision or conditional release of
24 juveniles authorized under the laws of the compacting states;

1 (11) "Rule" means a written statement by the Interstate Commission promulgated pursuant
2 to Article VI of this compact that is of general applicability, implements, interprets,
3 or prescribes a policy or provision of the compact, or an organizational, procedural,
4 or practice requirement of the commission, and has the force and effect of statutory
5 law in a compacting state, and includes the amendment, repeal, or suspension of an
6 existing rule;

7 (12) "State" means a state of the United States, the District of Columbia (or its designee),
8 the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa,
9 and the Northern Marianas Islands.

10 ARTICLE III, INTERSTATE COMMISSION FOR JUVENILES

11 The compacting states hereby create the Interstate Commission for Juveniles. The
12 commission shall be a body corporate and joint agency of the compacting states. The
13 commission shall have all the responsibilities, powers, and duties set forth herein, and such
14 additional powers as may be conferred upon it by subsequent action of the respective
15 legislatures of the compacting states in accordance with the terms of this compact.

16 The Interstate Commission shall consist of commissioners appointed by the appropriate
17 appointing authority in each state pursuant to the rules and requirements of each compacting
18 state and in consultation with the State Council for Interstate Juvenile Supervision created
19 hereunder. The commissioner shall be the compact administrator, deputy compact administrator,
20 or designee from that state who shall serve on the Interstate Commission in such capacity under
21 or pursuant to the applicable law of the compacting state. The Governor may designate the
22 director of court services for the Unified Judicial System to be the compact administrator, who,
23 acting jointly with like officers of other party states, shall promulgate rules to carry out more
24 effectively the terms of the compact. He shall serve as compact administrator subject to the

1 pleasure of the Governor.

2 In addition to the commissioners who are the voting representatives of each state, the
3 Interstate Commission shall include individuals who are not commissioners, but who are
4 members of interested organizations. Such noncommissioner members must include a member
5 of the national organizations of governors, legislators, state chief justices, attorneys general,
6 Interstate Compact for Adult Offender Supervision, Interstate Compact for the Placement of
7 Children, juvenile justice and juvenile corrections officials, and crime victims. All
8 noncommissioner members of the Interstate Commission shall be ex-officio (nonvoting)
9 members, including members of other national organizations, in such numbers as shall be
10 determined by the commission.

11 Each compacting state represented at any meeting of the commission is entitled to one vote.
12 A majority of the compacting states shall constitute a quorum for the transaction of business,
13 unless a larger quorum is required by the by-laws of the Interstate Commission.

14 The commission shall meet at least once each calendar year. The chairperson may call
15 additional meetings and, upon the request of a simple majority of the compacting states, shall
16 call additional meetings. Public notice shall be given of all meetings and meetings shall be open
17 to the public.

18 The Interstate Commission shall establish an executive committee, which shall include
19 commission officers, members, and others as determined by the by-laws. The executive
20 committee shall have the power to act on behalf of the Interstate Commission during periods
21 when the Interstate Commission is not in session, with the exception of rule making and/or
22 amendment to the compact. The executive committee shall oversee the day-to-day activities of
23 the administration of the compact managed by an executive director and Interstate Commission
24 staff; administer enforcement and compliance with the provisions of the compact, its by-laws

1 and rules, and perform such other duties as directed by the Interstate Commission and set forth
2 in the by-laws.

3 Each member of the Interstate Commission shall have the right and power to cast a vote to
4 which that compacting state is entitled and to participate in the business and affairs of the
5 Interstate Commission. A member shall vote in person and shall not delegate a vote to another
6 compacting state. However, a commission, in consultation with the state council, shall appoint
7 another authorized representative, in the absence of the commissioner from that state, to cast
8 a vote on behalf of the compacting state at a specified meeting. The by-laws may provide for
9 members' participation in meetings by telephone or other means of telecommunication or
10 electronic communication.

11 The Interstate Commission's by-laws shall establish conditions and procedures under which
12 the Interstate Commission shall make its information and official records available to the public
13 for inspection or copying. The Interstate Commission may exempt from disclosure any
14 information or official records to the extent they would adversely affect personal privacy rights
15 or proprietary interests.

16 Public notice shall be given of all meetings and all meetings shall be open to the public,
17 except as set forth in the rules or as otherwise provided in the compact. The Interstate
18 Commission and any of its committees may close a meeting to the public when it determines
19 by two-thirds vote that an open meeting would be likely to:

- 20 (1) Relate solely to the Interstate Commission's internal personnel practice and
21 procedures;
- 22 (2) Disclose matters specifically exempted from disclosure by statute;
- 23 (3) Disclose trade secrets or commercial or financial information which is privileged or
24 confidential;

- 1 (4) Involve accusing any person of a crime, or formally censuring any person;
- 2 (5) Disclose information of a personal nature where disclosure would constitute a clearly
3 unwarranted invasion of personal privacy;
- 4 (6) Disclose investigative records compiled for law enforcement purposes;
- 5 (7) Disclose information contained in or related to examination, operating, or condition
6 reports prepared by, or on behalf of or for the use of, the Interstate Commission with
7 respect to a regulated person or entity for the purpose of regulation or supervision of
8 such person or entity;
- 9 (8) Disclose information, the premature disclosure of which would significantly
10 endanger the stability of a regulated person or entity; or
- 11 (9) Specifically relate to the Interstate Commission's issuance of a subpoena, or its
12 participation in a civil action or other legal proceeding.

13 For every meeting closed pursuant to this provision, the Interstate Commission's legal
14 counsel shall publicly certify that, in the legal counsel's opinion, the meeting may be closed to
15 the public, and shall reference each relevant exemptive provision. The Interstate Commission
16 shall keep minutes which shall fully and clearly describe all matters discussed in any meeting
17 and shall provide a full and accurate summary of any actions taken, and the reasons therefore,
18 including a description of each of the views expressed on any item and the record of any roll call
19 vote (reflected in the vote of each member on the question). All documents considered in
20 connection with any action shall be identified in such minutes.

21 The Interstate Commission shall collect standardized data concerning the interstate
22 movement of juveniles as directed through its rules which shall specify the data to be collected,
23 the means of collection and data exchange, and reporting requirements. Such methods of data
24 collection, exchange, and reporting shall insofar as is reasonably possible conform to up-to-date

1 technology and coordinate its information functions with the appropriate repository of records.

2 ARTICLE IV, POWERS AND DUTIES OF THE INTERSTATE COMMISSION

3 The commission shall have the following powers and duties:

- 4 (1) To provide for dispute resolution among compacting states;
- 5 (2) To promulgate rules to effect the purposes and obligations as enumerated in this
6 compact, which shall have the force and effect of statutory law and shall be binding
7 in the compacting states to the extent and in the manner provided in this compact;
- 8 (3) To oversee, supervise, and coordinate the interstate movement of juveniles subject
9 to the terms of this compact and any by-laws adopted and rules promulgated by the
10 Interstate Commission;
- 11 (4) To enforce compliance with the compact provisions, the rules promulgated by the
12 Interstate Commission, and the by-laws, using all necessary and proper means,
13 including but not limited to the use of judicial process;
- 14 (5) To establish and maintain offices which shall be located within one or more of the
15 compacting states;
- 16 (6) To purchase and maintain insurance and bonds;
- 17 (7) To borrow, accept, hire, or contract for services of personnel;
- 18 (8) To establish and appoint committees and hire staff which it deems necessary for
19 carrying out of its functions including, but not limited to, an executive committee as
20 required by Article III which shall have the power to act on behalf of the Interstate
21 Commission in carrying out its powers and duties hereunder;
- 22 (9) To elect or appoint such officers, attorneys, employees, agents, or consultants, and
23 to fix their compensation, define their duties, and determine their qualifications; and
24 to establish the Interstate Commission's personnel policies and programs relating to,

- 1 inter alia, conflicts of interest, rates of compensation, and qualifications of personnel;
- 2 (10) To accept any and all donations and grants of money, equipment, supplies, materials,
- 3 and services, and to receive, utilize, and dispose of it;
- 4 (11) To lease, purchase, accept contributions or donations of, or otherwise to own, hold,
- 5 improve, or use any property, real, personal, or mixed;
- 6 (12) To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose
- 7 of any property, real, personal, or mixed;
- 8 (13) To establish a budget and make expenditures and levy dues as provided in Article
- 9 VIII of this compact;
- 10 (14) To sue and be sued;
- 11 (15) To adopt a seal and by-laws governing the management and operation of the
- 12 Interstate Commission;
- 13 (16) To perform such functions as may be necessary or appropriate to achieve the
- 14 purposes of this compact;
- 15 (17) To report annually to the legislatures, governors, judiciary, and state councils of the
- 16 compacting states concerning the activities of the Interstate Commission during the
- 17 preceding year. Such reports shall also include any recommendations that may have
- 18 been adopted by the Interstate Commission;
- 19 (18) To coordinate education, training, and public awareness regarding the interstate
- 20 movement of juveniles for officials involved in such activity;
- 21 (19) To establish uniform standards for reporting, collecting, and exchanging of data;
- 22 (20) The Interstate Commission shall maintain its corporate books and records in
- 23 accordance with the by-laws.

24 ARTICLE V, ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

1 Section A. By-laws

2 The Interstate Commission shall, by a majority of the members present and voting, within
3 twelve months after the first Interstate Commission meeting, adopt by-laws to govern its
4 conduct as may be necessary or appropriate to carry out the purposes of the compact, including,
5 but not limited to:

- 6 (1) Establishing the fiscal year of the Interstate Commission;
- 7 (2) Establishing an executive committee and such other committees as may be necessary;
- 8 (3) Providing for the establishment of committees governing any general or specific
9 delegation of any authority or function of the Interstate Commission;
- 10 (4) Providing reasonable procedures for calling and conducting meetings of the Interstate
11 Commission, and ensuring reasonable notice of each such meeting;
- 12 (5) Establishing the titles and responsibilities of the officers of the Interstate
13 Commission;
- 14 (6) Providing a mechanism for concluding the operations of the Interstate Commission
15 and the return of any surplus funds that may exist upon the termination of the
16 compact after the payment and/or reserving of all of its debts and obligations;
- 17 (7) Providing "start-up" rules for initial administration of the compact; and
- 18 (8) Establishing standards and procedures for compliance and technical assistance in
19 carrying out the compact.

20 Section B. Officers and Staff

21 The Interstate Commission shall, by a majority of the members, elect annually from among
22 its members a chairperson and a vice chairperson, each of whom shall have such authority and
23 duties as may be specified in the by-laws. The chairperson or, in the chairperson's absence or
24 disability, the vice chairperson shall preside at all meetings of the Interstate Commission. The

1 officers so elected shall serve without compensation or remuneration from the Interstate
2 Commission; provided that, subject to the availability of budgeted funds, the officers shall be
3 reimbursed for any ordinary and necessary costs and expenses incurred by them in the
4 performance of their duties and responsibilities as officers of the Interstate Commission.

5 The Interstate Commission shall, through its executive committee, appoint or retain an
6 executive director for such period, upon such terms and conditions and for such compensation
7 as the Interstate Commission may deem appropriate. The executive director shall serve as
8 secretary to the Interstate Commission, but shall not be a member and shall hire and supervise
9 such other staff as may be authorized by the Interstate Commission.

10 Section C. Qualified Immunity, Defense and Indemnification

11 The Commission's executive director and employee shall be immune from suit and liability,
12 either personally or in their official capacity, for any claim for damage to or loss of property or
13 personal injury or other civil liability caused or arising out of or relating to any actual or alleged
14 act, error, or omission that occurred, or that such person had a reasonable basis for believing
15 occurred within the scope of commission employment, duties, or responsibilities; provided, that
16 any such person shall not be protected from suit or liability from any damage, loss, injury, or
17 liability caused by the intentional or willful and wanton misconduct of any such person.

18 The liability of any commissioner, or the employee or agent of a commissioner, acting
19 within the scope of such person's employment or duties for acts, errors, or omissions occurring
20 within such person's state may not exceed the limits of liability set forth under the constitution
21 and laws of that state for state officials, employees, and agents. Nothing in this subsection shall
22 be construed to protect any such person from suit or liability for any damage, loss, injury, or
23 liability caused by the intentional or willful and wanton misconduct of any such person.

24 The Interstate Commission shall defend the executive director or the employees or

1 representatives of the Interstate Commission and, subject to the approval of the attorney general
2 of the state represented by any commissioner of a compacting state, shall defend such
3 commissioner or the commissioner's representatives or employees in any civil action seeking
4 to impose liability arising out of any actual or alleged act, error, or omission that occurred within
5 the scope of Interstate Commission employment, duties, or responsibilities, or that the defendant
6 had a reasonable basis for believing occurred within the scope of Interstate Commission
7 employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission
8 did not result from intentional or willful and wanton misconduct on the part of such person.

9 The Interstate Commission shall indemnify and hold the commissioner of a compacting
10 state, or the commissioner's representatives or employees, or the Interstate Commission's
11 representatives or employees, harmless in the amount of any settlement or judgment obtained
12 against such persons arising out of any actual or alleged act, error, or omission that occurred
13 within the scope of Interstate Commission employment, duties, or responsibilities, or that such
14 persons had a reasonable basis for believing occurred within the scope of the Interstate
15 Commission employment, duties, or responsibilities, provided that the actual or alleged act,
16 error, or omission did not result from intentional or willful and wanton misconduct on the part
17 of such persons.

18 **ARTICLE VI, RULE-MAKING FUNCTIONS OF THE INTERSTATE COMMISSION**

19 The Interstate Commission shall promulgate and publish rules in order to effectively and
20 efficiently achieve the purposes of the compact.

21 Rule making shall occur pursuant to the criteria set forth in this article and the by-laws and
22 rules adopted pursuant thereto. Such rule making shall substantially conform to the principles
23 of the "Model State Administrative Procedures Act," 1981 Act, Uniform Laws Annotated, Vol.
24 15, p. 1 (2000), or such other administrative procedures act as the Interstate Commission deems

1 appropriate consistent with due process requirements under the U.S. Constitution as now or
2 hereafter interpreted by the U.S. Supreme Court. All rules and amendments shall become
3 binding as of the date specified, as published with the final version of the rule as approved by
4 the commission.

5 When promulgating a rule, the Interstate Commission shall, at a minimum:

- 6 (1) Publish the proposed rule's entire text stating the reason(s) for that proposed rule;
- 7 (2) Allow and invite any and all persons to submit written data, facts, opinions, and
8 arguments, which information shall be added to the record and made publicly
9 available;
- 10 (3) Provide an opportunity for an informal hearing if petitioned by ten or more persons;
- 11 (4) Promulgate a final rule and its effective date, if appropriate, based on input from state
12 or local officials, or interested parties; and
- 13 (5) Allow, not later than sixty days after a rule is promulgated, any interested person to
14 file a petition in the United States District Court for the District of Columbia or in the
15 Federal District Court where the Interstate Commission's principal office is located
16 for judicial review of such rule.

17 If the court finds that the Interstate Commission's action is not supported by substantial
18 evidence in the rule-making record, the court shall hold the rule unlawful and set it aside. For
19 purposes of this subsection, evidence is substantial if it would be considered substantial
20 evidence under the Model State Administrative Procedures Act.

21 If a majority of the legislatures of the compacting states rejects a rule, those states may, by
22 enactment of a statute or resolution in the same manner used to adopt the compact, cause that
23 such rule shall have no further force and effect in any compacting state.

24 The existing rules governing the operation of the Interstate Compact on Juveniles

1 superseded by this Act shall be null and void twelve months after the first meeting of the
2 Interstate Commission created hereunder.

3 Upon determination by the Interstate Commission that a state of emergency exists, it may
4 promulgate an emergency rule which shall become effective immediately upon adoption,
5 provided that the usual rule-making procedures provided hereunder shall be retroactively
6 applied to said rule as soon as reasonably possible, but no later than ninety days after the
7 effective date of the emergency rule.

8 ARTICLE VII, OVERSIGHT, ENFORCEMENT AND DISPUTE RESOLUTION

9 BY THE INTERSTATE COMMISSION

10 Section A. Oversight

11 The Interstate Commission shall oversee the administration and operations of the interstate
12 movement of juveniles subject to this compact in the compacting states and shall monitor such
13 activities being administered in noncompacting states which may significantly affect compacting
14 states.

15 The courts and executive agencies in each compacting state shall enforce this compact and
16 shall take all actions necessary and appropriate to effectuate the compact's purposes and intent.

17 The provisions of this compact and the rules promulgated hereunder shall be received by all
18 judges, public officers, commissions, and departments of the state government as evidence of
19 the authorized statute and administrative rules. All courts shall take judicial notice of the
20 compact and the rules. In any judicial or administrative proceeding in a compacting state
21 pertaining to the subject matter of this compact which may affect the powers, responsibilities,
22 or actions of the Interstate Commission, it shall be entitled to receive all service of process in
23 any such proceeding, and shall have standing to intervene in the proceeding for all purposes.

24 Section B. Dispute Resolution.

1 The compacting states shall report to the Interstate Commission on all issues and activities
2 necessary for the administration of the compact as well as issues and activities pertaining to
3 compliance with the provisions of the compact and its by-laws and rules.

4 The Interstate Commission shall attempt, upon the request of a compacting state, to resolve
5 any disputes or other issues which are subject to the compact and which may arise among
6 compacting states and between compacting and noncompacting states. The commission shall
7 promulgate a rule providing for both mediation and binding dispute resolution for disputes
8 among the compacting states.

9 The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the
10 provisions and rules of this compact using any or all means set forth in Article XI of this
11 compact.

12 ARTICLE VIII, FINANCE

13 The Interstate Commission shall pay or provide for the payment of the reasonable expenses
14 of its establishment, organization, and ongoing activities.

15 The Interstate Commission shall levy on and collect an annual assessment from each
16 compacting state to cover the cost of the internal operations and activities of the Interstate
17 Commission and its staff which must be in a total amount sufficient to cover the Interstate
18 Commission's annual budget as approved each year. The aggregate annual assessment amount
19 shall be allocated based upon a formula to be determined by the Interstate Commission, taking
20 into consideration the population of each compacting state and the volume of interstate
21 movement of juveniles in each compacting state and shall promulgate a rule binding upon all
22 compacting states which governs said assessment.

23 The Interstate Commission shall not incur any obligations of any kind prior to securing the
24 funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any

1 of the compacting states, except by and with the authority of the compacting state.

2 The Interstate Commission shall keep accurate accounts of all receipts and disbursements.

3 The receipts and disbursements of the Interstate Commission shall be subject to the audit and

4 accounting procedures established under its by-laws. However, all receipts and disbursements

5 of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed

6 public accountant and the report of the audit shall be included in and become part of the annual

7 report of the Interstate Commission.

8 ARTICLE IX, THE STATE COUNCIL

9 Each member state shall create a State Council for Interstate Juvenile Supervision. While

10 each state may determine the membership of its own state council, its membership must include

11 at least one representative from the legislative, judicial, and executive branches of government,

12 victims' groups and the compact administrator, deputy compact administrator, or designee. Each

13 compacting state retains the right to determine the qualifications of the compact administrator

14 or deputy compact administrator. Each state council will advise and may exercise oversight and

15 advocacy concerning that state's participation in Interstate Commission activities and other

16 duties as may be determined by that state, including but not limited to, development of policy

17 concerning operations and procedures of the compact within that state.

18 ARTICLE X, COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT

19 Any state, the District of Columbia (or its designee), the Commonwealth of Puerto Rico, the

20 U.S. Virgin Islands, Guam, American Samoa, and the Northern Marianas Islands as defined in

21 Article II of this compact is eligible to become a compacting state. The compact shall become

22 effective and binding upon legislative enactment of the compact into law by no less than thirty-

23 five of the states. The initial effective date shall be the later of July 1, 2004, or upon enactment

24 into law by the thirty-fifth jurisdiction. Thereafter it shall become effective and binding as to

1 any other compacting state upon enactment of the compact into law by that state. The governors
2 of nonmember states or their designees shall be invited to participate in the activities of the
3 Interstate Commission on a nonvoting basis prior to adoption of the compact by all states and
4 territories of the United States.

5 The Interstate Commission may propose amendments to the compact for enactment by the
6 compacting states. No amendment shall become effective and binding upon the Interstate
7 Commission and the compacting states unless and until it is enacted into law by unanimous
8 consent of the compacting states.

9 ARTICLE XI, WITHDRAWAL, DEFAULT, TERMINATION AND JUDICIAL
10 ENFORCEMENT

11 Section A. Withdrawal

12 Once effective, the compact shall continue in force and remain binding upon each and every
13 compacting state; provided that a compacting state may withdraw from the compact by
14 specifically repealing the statute which enacted the compact into law.

15 The effective date of withdrawal is the effective date of the repeal.

16 The withdrawing state shall immediately notify the chairperson of the Interstate Commission
17 in writing upon the introduction of legislation repealing this compact in the withdrawing state.
18 The Interstate Commission shall notify the other compacting states of the withdrawing state's
19 intent to withdraw within sixty days of its receipt thereof.

20 The withdrawing state is responsible for all assessments, obligations, and liabilities incurred
21 through the effective date of withdrawal, including any obligations, the performance of which
22 extend beyond the effective date of withdrawal.

23 Reinstatement following withdrawal of any compacting state shall occur upon the
24 withdrawing state reenacting the compact or upon such later date as determined by the Interstate

1 Commission.

2 Section B. Technical Assistance, Fines, Suspension, Termination and Default

3 If the Interstate Commission determines that any compacting state has at any time defaulted
4 in the performance of any of its obligations or responsibilities under this compact, or the by-
5 laws or duly promulgated rules, the Interstate Commission may impose any or all of the
6 following penalties:

7 (1) Remedial training and technical assistance as directed by the Interstate Commission;
8 (2) Alternative Dispute Resolution;
9 (3) Fines, fees, and costs in such amounts as are deemed reasonable as fixed by the
10 Interstate Commission; and

11 (4) Suspension or termination of membership in the compact, which shall be imposed
12 only after all other reasonable means of securing compliance under the by-laws and
13 rules have been exhausted and the Interstate Commission has therefore determined
14 that the offending state is in default. Immediate notice of suspension shall be given
15 by the Interstate Commission to the Governor, the Chief Justice or the chief judicial
16 officer of the state, the majority and minority leaders of the defaulting state's
17 legislature, and the state council. The grounds for default include, but are not limited
18 to, failure of a compacting state to perform such obligations or responsibilities
19 imposed upon it by this compact, the by-laws or duly promulgated rules and any
20 other grounds designated in commission by-laws and rules. The Interstate
21 Commission shall immediately notify the defaulting state in writing of the penalty
22 imposed by the Interstate Commission and of the default pending a cure of the
23 default. If the defaulting state fails to cure the default within the time period specified
24 by the commission, the defaulting state shall be terminated from the compact upon

1 an affirmative vote of a majority of the compacting states and all rights, privileges,
2 and benefits conferred by this compact shall be terminated from the effective date of
3 termination.

4 Within sixty days of the effective date of termination of a defaulting state, the commission
5 shall notify the Governor, the Chief Justice or chief judicial officer, the majority and minority
6 leaders of the defaulting state's legislature, and the state council of such termination.

7 The defaulting state is responsible for all assessments, obligations, and liabilities incurred
8 through the effective date of termination including any obligations, the performance of which
9 extends beyond the effective date of termination.

10 The Interstate Commission shall not bear any costs relating to the defaulting state unless
11 otherwise mutually agreed upon in writing between the Interstate Commission and the
12 defaulting state.

13 Reinstatement following termination of any compacting state requires a reenactment of the
14 compact by the defaulting state and the approval of the Interstate Commission pursuant to the
15 rules.

16 Section C. Judicial Enforcement

17 The Interstate Commission may, by majority vote of the members, initiate legal action in the
18 United States District Court for the District of Columbia or, at the discretion of the Interstate
19 Commission, in the federal district where the Interstate Commission has its offices, to enforce
20 compliance with the provisions of the compact, its duly promulgated rules and by-laws, against
21 any compacting state in default. In the event judicial enforcement is necessary, the prevailing
22 party shall be awarded all costs of such litigation including reasonable attorney's fees.

23 Section D. Dissolution of Compact

24 The compact dissolves effective upon the date of the withdrawal or default of the

1 compacting state, which reduces membership in the compact to one compacting state.

2 Upon the dissolution of this compact, the compact becomes null and void and shall be of
3 no further force or effect, and the business and affairs of the Interstate Commission shall be
4 concluded and any surplus funds shall be distributed in accordance with the by-laws.

5 ARTICLE XII, SEVERABILITY AND CONSTRUCTION

6 The provisions of this compact shall be severable, and if any phrase, clause, sentence, or
7 provision is deemed unenforceable, the remaining provisions of the compact shall be
8 enforceable.

9 The provisions of this compact shall be liberally construed to effectuate its purpose.

10 ARTICLE XIII, BINDING EFFECT OF COMPACT AND OTHER LAWS

11 Section A. Other Laws.

12 Nothing herein prevents the enforcement of any other law of a compacting state that is not
13 inconsistent with this compact.

14 All compacting states' laws other than state Constitutions and other interstate compacts
15 conflicting with this compact are superseded to the extent of the conflict.

16 Section B. Binding Effect of the Compact

17 All lawful actions of the Interstate Commission, including all rules and by-laws promulgated
18 by the Interstate Commission, are binding upon the compacting states.

19 All agreements between the Interstate Commission and the compacting states are binding
20 in accordance with their terms.

21 Upon the request of a party to a conflict over meaning or interpretation of Interstate
22 Commission actions, and upon a majority vote of the compacting states, the Interstate
23 Commission may issue advisory opinions regarding such meaning or interpretation.

24 In the event any provision of this compact exceeds the constitutional limits imposed on the

1 legislature of any compacting state, the obligations, duties, powers, or jurisdiction sought to be
 2 conferred by such provision upon the Interstate Commission shall be ineffective and such
 3 obligations, duties, powers, or jurisdiction shall remain in the compacting state and shall be
 4 exercised by the agency thereof to which such obligations, duties, powers, or jurisdiction are
 5 delegated by law in effect at the same time this compact becomes effective.

6 Section 2. That § 26-12-1 be repealed.

7 ~~—26-12-1. There continues in force a compact between this state and any other state or states~~
 8 ~~legally joining therein in the form substantially as follows:~~

9 INTERSTATE COMPACT ON JUVENILES

10 ~~—The contracting states solemnly agree:~~

11 ARTICLE I

12 ~~—That juveniles who are not under proper supervision and control, or who have absconded,~~
 13 ~~escaped or run away, are likely to endanger their own health, morals, and welfare, and the~~
 14 ~~health, morals, and welfare of others. The cooperation of the states party to this compact is~~
 15 ~~therefore necessary to provide for the welfare and protection of juveniles and of the public with~~
 16 ~~respect to:~~

17 ~~—(1) Cooperative supervision of delinquent juveniles on probation or parole;~~

18 ~~—(2) The return, from one state to another, of delinquent juveniles who have escaped or~~
 19 ~~absconded;~~

20 ~~—(3) The return, from one state to another of nondelinquent juveniles who have run away~~
 21 ~~from home; and~~

22 ~~—(4) Additional measures for the protection of juveniles and of the public, which any two~~
 23 ~~or more of the party states may find desirable to undertake cooperatively.~~

24 ~~—In carrying out the provisions of this compact the party states shall be guided by the~~

1 ~~noncriminal, reformatory, and protective policies which guide their laws concerning delinquent,~~
2 ~~neglected, or dependent juveniles generally. It shall be the policy of the states party to this~~
3 ~~compact to cooperate and observe their respective responsibilities for the prompt return and~~
4 ~~acceptance of juveniles and delinquent juveniles who become subject to the provisions of this~~
5 ~~compact. The provisions of this compact shall be reasonably and liberally construed to~~
6 ~~accomplish the foregoing purposes.~~

7 ~~ARTICLE II~~

8 ~~— That all remedies and procedures provided by this compact shall be in addition to and not~~
9 ~~in substitution for other rights, remedies, and procedures, and shall not be in derogation of~~
10 ~~parental rights and responsibilities.~~

11 ~~ARTICLE III~~

12 ~~— That, for the purposes of this compact, "delinquent juvenile" means any juvenile who has~~
13 ~~been adjudged delinquent and who, at the time the provisions of this compact are invoked, is~~
14 ~~still subject to the jurisdiction of the court that has made such adjudication or to the jurisdiction~~
15 ~~or supervision of an agency or institution pursuant to an order of such court; "probation or~~
16 ~~parole" means any kind of conditional release of juveniles authorized under the laws of the~~
17 ~~states party hereto; "court" means any court having jurisdiction over delinquent, neglected, or~~
18 ~~dependent children; "state" means any state, territory, or possession of the United States, the~~
19 ~~District of Columbia, and the Commonwealth of Puerto Rico; and "resident" or any variant~~
20 ~~thereof means a place at which a home or regular place of abode is maintained.~~

21 ~~ARTICLE IV~~

22 ~~— (a) — That the parent, guardian, person, or agency entitled to legal custody of a juvenile~~
23 ~~who has not been adjudged delinquent but who has run away without the consent of~~
24 ~~such parent, guardian, person, or agency may petition the appropriate court in the~~

1 ~~demanding state for the issuance of a requisition for his return. The petition shall~~
2 ~~state the name and age of the juvenile, the name of the petitioner and the basis of~~
3 ~~entitlement to the juvenile's custody, the circumstances of his running away, his~~
4 ~~location if known at the time application is made, and such other facts as may tend~~
5 ~~to show that the juvenile who has run away is endangering his own welfare or the~~
6 ~~welfare of others and is not an emancipated minor. The petition shall be verified by~~
7 ~~affidavit, shall be executed in duplicate, and shall be accompanied by two certified~~
8 ~~copies of the document or documents on which the petitioner's entitlement to the~~
9 ~~juvenile's custody is based, such as birth certificate, letters of guardianship, or~~
10 ~~custody decrees. Such further affidavits and other documents as may be deemed~~
11 ~~proper may be submitted with such petition. The judge of the court to which this~~
12 ~~application is made may hold a hearing thereon to determine whether for the~~
13 ~~purposes of this compact the petitioner is entitled to the legal custody of the juvenile,~~
14 ~~whether or not it appears that the juvenile has in fact run away without consent,~~
15 ~~whether or not he is an emancipated minor, and whether or not it is in the best~~
16 ~~interest of the juvenile to compel his return to the state. If the judge determines, either~~
17 ~~with or without a hearing, that the juvenile should be returned, he shall present to the~~
18 ~~appropriate court or to the executive authority of the state where the juvenile is~~
19 ~~alleged to be located, a written requisition for the return of such juvenile. Such~~
20 ~~requisition shall set forth the name and age of the juvenile, the determination of the~~
21 ~~court that the juvenile has run away without the consent of a parent, guardian, person,~~
22 ~~or agency entitled to his legal custody, and that it is in the best interest and for the~~
23 ~~protection of such juvenile that he be returned. In the event that a proceeding for the~~
24 ~~adjudication of the juvenile as a delinquent, neglected or dependent juvenile is~~

1 pending in the court at the time when such juvenile runs away, the court may issue
2 a requisition for the return of such juvenile upon its own motion, regardless of the
3 consent of the parent, guardian, person or agency entitled to legal custody, reciting
4 therein the nature and circumstances of the pending proceeding. The requisition shall
5 in every case be executed in duplicate and shall be signed by the judge. One copy of
6 the requisition shall be filed with the compact administrator of the demanding state,
7 there to remain on file subject to the provisions of law governing records of such
8 court. Upon the receipt of a requisition demanding the return of a juvenile who has
9 run away, the court or the executive authority to whom the requisition is addressed
10 shall issue an order to any peace officer or other appropriate person directing him to
11 take into custody and detain such juvenile. Such detention order must substantially
12 recite the facts necessary to the validity of its issuance hereunder. No juvenile
13 detained upon such order shall be delivered over to the officer whom the court
14 demanding him shall have appointed to receive him, unless he shall first be taken
15 forthwith before a judge of a court in the state, who shall inform him of the demand
16 made for his return, and who may appoint counsel or guardian ad litem for him. If the
17 judge of such court shall find that the requisition is in order, he shall deliver such
18 juvenile over to the officer whom the court demanding him shall have appointed to
19 receive him. The judge, however, may fix a reasonable time to be allowed for the
20 purpose of testing the legality of the proceeding.

21 ~~Upon reasonable information that a person is a juvenile who has run away from~~
22 ~~another state party to this compact without the consent of a parent, guardian, person~~
23 ~~or agency entitled to his legal custody, such juvenile may be taken into custody~~
24 ~~without a requisition and brought forthwith before a judge of the appropriate court~~

1 who may appoint counsel or guardian ad litem for such juvenile and who shall
2 determine after a hearing whether sufficient cause exists to hold the person, subject
3 to the order of the court, for his own protection and welfare, for such a time not
4 exceeding ninety days as will enable his return to another state party to this compact
5 pursuant to a requisition for his return from a court of that state. If, at the time when
6 a state seeks the return of a juvenile who has run away, there is pending in the state
7 wherein he is found any criminal charge, or any proceeding to have him adjudicated
8 a delinquent juvenile for an act committed in such state, or if he is suspected of
9 having committed within such state a criminal offense or an act of juvenile
10 delinquency, he shall not be returned without the consent of such state until
11 discharged from prosecution or other form of proceeding, imprisonment, detention
12 or supervision for such offense or juvenile delinquency. The duly accredited officers
13 of any state party to this compact, upon the establishment of their authority and the
14 identity of the juvenile being returned, shall be permitted to transport such juvenile
15 through any and all states party to this compact, without interference. Upon his return
16 to the state from which he ran away, the juvenile shall be subject to such further
17 proceedings as may be appropriate under the laws of that state.

18 ~~(b)~~ That the state to which a juvenile is returned under this Article shall be responsible
19 for payment of the transportation costs of such return.

20 ~~(c)~~ That "juvenile" as used in this Article means any person who is a minor under the law
21 of the state of residence of the parent, guardian, person or agency entitled to legal
22 custody of such minor.

23 ARTICLE V

24 ~~(a)~~ That the appropriate person or authority from whose probation or parole supervision

1 ~~a delinquent juvenile has absconded or from whose institutional custody he has~~
2 ~~escaped shall present to the appropriate court or to the executive authority of the state~~
3 ~~where the delinquent juvenile is alleged to be located a written requisition for the~~
4 ~~return of such delinquent juvenile. Such requisition shall state the name and age of~~
5 ~~the delinquent juvenile, the particulars of his adjudication as a delinquent juvenile,~~
6 ~~the circumstances of the breach of the terms of his probation or parole or of his~~
7 ~~escape from an institution or agency vested with his legal custody or supervision, and~~
8 ~~the location of such delinquent juvenile, if known, at the time the requisition is made.~~
9 ~~The requisition shall be verified by affidavit, shall be executed in duplicate, and shall~~
10 ~~be accompanied by two certified copies of the judgment, formal adjudication, or~~
11 ~~order of commitment which subjects such delinquent juvenile to probation or parole~~
12 ~~or to the legal custody of the institution or agency concerned. Such further affidavits~~
13 ~~and other documents as may be deemed proper may be submitted with such~~
14 ~~requisition. One copy of the requisition shall be filed with the compact administrator~~
15 ~~of the demanding state, there to remain on file subject to the provisions of law~~
16 ~~governing records of the appropriate court. Upon the receipt of a requisition~~
17 ~~demanding the return of a delinquent juvenile who has absconded or escaped, the~~
18 ~~court or the executive authority to whom the requisition is addressed shall issue an~~
19 ~~order to any peace officer or other appropriate person directing him to take into~~
20 ~~custody and detain such delinquent juvenile. Such detention order must substantially~~
21 ~~recite the facts necessary to the validity of its issuance hereunder. No delinquent~~
22 ~~juvenile detained upon such order shall be delivered over to the officer whom the~~
23 ~~appropriate person or authority demanding him shall have appointed to receive him,~~
24 ~~unless he shall first be taken forthwith before a judge of an appropriate court in the~~

1 state, who shall inform him of the demand made for his return and who may appoint
2 counsel or guardian ad litem for him. If the judge of such court shall find that the
3 requisition is in order, he shall deliver such delinquent juvenile over to the officer
4 whom the appropriate person or authority demanding him shall have appointed to
5 receive him. The judge, however, may fix a reasonable time to be allowed for the
6 purpose of testing the legality of the proceeding.

7 ~~Upon reasonable information that a person is a delinquent juvenile who has~~
8 ~~absconded while on probation or parole, or escaped from an institution or agency~~
9 ~~vested with his legal custody or supervision in any state party to this compact, such~~
10 ~~person may be taken into custody in any other state party to this compact without a~~
11 ~~requisition. But in such event, he must be taken forthwith before a judge of the~~
12 ~~appropriate court, who may appoint counsel or guardian ad litem for such person and~~
13 ~~who shall determine, after a hearing, whether sufficient cause exists to hold the~~
14 ~~person subject to the order of the court for such a time, not exceeding ninety days, as~~
15 ~~will enable his detention under a detention order issued on a requisition pursuant to~~
16 ~~this Article. If, at the time when a state seeks the return of a delinquent juvenile who~~
17 ~~has either absconded while on probation or parole or escaped from an institution or~~
18 ~~agency vested with his legal custody or supervision, there is pending in the state~~
19 ~~wherein he is detained any criminal charge or any proceeding to have him~~
20 ~~adjudicated a delinquent juvenile for an act committed in such state, or if he is~~
21 ~~suspected of having committed within such state a criminal offense or an act of~~
22 ~~juvenile delinquency, he shall not be returned without the consent of such state until~~
23 ~~discharged from prosecution or other form of proceeding, imprisonment, detention~~
24 ~~or supervision for such offense or juvenile delinquency. The duly accredited officers~~

1 of any state party to this compact, upon the establishment of their authority and the
2 identity of the delinquent juvenile being returned, shall be permitted to transport such
3 delinquent juvenile through any and all states party to this compact, without
4 interference. Upon his return to the state from which he escaped or absconded, the
5 delinquent juvenile shall be subject to such further proceedings as may be appropriate
6 under the laws of that state.

7 ~~— (b) —~~ That the state to which a delinquent juvenile is returned under this Article shall be
8 responsible for payment of the transportation costs of such return.

9 ARTICLE VI

10 ~~—~~ That any delinquent juvenile who has absconded while on probation or parole, or escaped
11 from an institution or agency vested with his legal custody or supervision in any state party to
12 this compact, and any juvenile who has run away from any state party to this compact, who is
13 taken into custody without a requisition in another state party to this compact under the
14 provisions of Article IV (a) or of Article V (a), may consent to his immediate return to the state
15 from which he absconded, escaped or ran away. Such consent shall be given by the juvenile or
16 delinquent juvenile and his counsel or guardian ad litem if any, by executing or subscribing a
17 writing, in the presence of a judge of the appropriate court, which states that the juvenile or
18 delinquent juvenile and his counsel or guardian ad litem, if any, consent to his return to the
19 demanding state. Before such consent shall be executed or subscribed, however, the judge, in
20 the presence of counsel or guardian ad litem, if any, shall inform the juvenile or delinquent
21 juvenile of his rights under this compact. When the consent has been duly executed, it shall be
22 forwarded to and filed with the compact administrator of the state in which the court is located
23 and the judge shall direct the officer having the juvenile or delinquent juvenile in custody to
24 deliver him to the duly accredited officer or officers of the state demanding his return, and shall

1 ~~cause to be delivered to such officer or officers a copy of the consent. The court may, however,~~
2 ~~upon the request of the state to which the juvenile or delinquent juvenile is being returned, order~~
3 ~~him to return unaccompanied to such state and shall provide him with a copy of such court~~
4 ~~order, in such event a copy of the consent shall be forwarded to the compact administrator of~~
5 ~~the state to which said juvenile or delinquent juvenile is ordered to return.~~

6 ARTICLE VII

7 ~~— (a) — That the duly constituted judicial and administrative authorities of a state party to this~~
8 ~~compact (herein called "sending state") may permit any delinquent juvenile within~~
9 ~~such state, placed on probation or parole, to reside in any other state party to this~~
10 ~~compact (herein called "receiving state") while on probation or parole, and the~~
11 ~~receiving state shall accept such delinquent juvenile, if the parent, guardian or person~~
12 ~~entitled to the legal custody of such delinquent juvenile is residing or undertakes to~~
13 ~~reside within the receiving state. Before granting such permission, opportunity shall~~
14 ~~be given to the receiving state to make such investigations as it deems necessary. The~~
15 ~~authorities of the sending state shall send to the authorities of the receiving state~~
16 ~~copies of pertinent court orders, social case studies and all other available~~
17 ~~information which may be of value to and assist the receiving state in supervising a~~
18 ~~probationer or parolee under this compact. A receiving state, in its discretion, may~~
19 ~~agree to accept supervision of a probationer or parolee in cases where the parent,~~
20 ~~guardian or person entitled to legal custody of the delinquent juvenile is not a~~
21 ~~resident of the receiving state, and if so accepted the sending state may transfer~~
22 ~~supervision accordingly.~~

23 ~~— (b) — That each receiving state will assume the duties of visitation and of supervision over~~
24 ~~any such delinquent juvenile and in the exercise of those duties will be governed by~~

1 ~~the same standards of visitation and supervision that prevail for its own delinquent~~
2 ~~juveniles released on probation or parole.~~

3 ~~—(c)— That, after consultation between the appropriate authorities of the sending state and~~
4 ~~of the receiving state as to the desirability and necessity of returning such a~~
5 ~~delinquent juvenile, the duly accredited officers of a sending state may enter a~~
6 ~~receiving state and there apprehend and retake any such delinquent juvenile on~~
7 ~~probation or parole. For that purpose, no formalities will be required, other than~~
8 ~~establishing the authority of the officer and the identity of the delinquent juvenile to~~
9 ~~be retaken and returned. The decision of the sending state to retake a delinquent~~
10 ~~juvenile on probation or parole shall be conclusive upon and not reviewable within~~
11 ~~the receiving state, but if, at the time the sending state seeks to retake a delinquent~~
12 ~~juvenile on probation or parole, there is pending against him within the receiving~~
13 ~~state any criminal charge or any proceeding to have him adjudicated a delinquent~~
14 ~~juvenile for any act committed in such state, or if he is suspected of having~~
15 ~~committed within such state a criminal offense or an act of juvenile delinquency, he~~
16 ~~shall not be returned without the consent of the receiving state until discharged from~~
17 ~~prosecution or other form of proceeding, imprisonment, detention or supervision for~~
18 ~~such offense or juvenile delinquency. The duly accredited officers of the sending~~
19 ~~state shall be permitted to transport delinquent juveniles being so returned through~~
20 ~~any and all states party to this compact, without interference.~~

21 ~~—(d)— That the sending state shall be responsible under this Article for paying the costs of~~
22 ~~transporting any delinquent juvenile to the receiving state or of returning any~~
23 ~~delinquent juvenile to the sending state.~~

1 ~~—(a)— That the provisions of Articles IV(b), V(b), and VII(d) of this compact shall not be~~
 2 ~~construed to alter or affect any internal relationship among the departments, agencies~~
 3 ~~and officers of and in the government of a party state, or between a party state and~~
 4 ~~its subdivisions, as to the payment of costs, or responsibilities therefor.~~

5 ~~—(b)— That nothing in this compact shall be construed to prevent any party state or~~
 6 ~~subdivision thereof from asserting any right against any person, agency or other entity~~
 7 ~~in regard to costs for which such party state or subdivision thereof may be~~
 8 ~~responsible pursuant to Article IV(b), V(b), or VII(d) of this compact.~~

ARTICLE IX

9
 10 ~~—That, to every extent possible, it shall be the policy of states party to this compact that no~~
 11 ~~juvenile or delinquent shall be placed or detained in any prison, jail or lockup nor be detained~~
 12 ~~or transported in association with criminal, vicious or dissolute persons.~~

ARTICLE X

13
 14 ~~—That the duly constituted administrative authorities of a state party to this compact may enter~~
 15 ~~into supplementary agreements with any other state or states party hereto for the cooperative~~
 16 ~~care, treatment and rehabilitation of delinquent juveniles whenever they shall find that such~~
 17 ~~agreements will improve the facilities or programs available for such care, treatment, and~~
 18 ~~rehabilitation. Such care, treatment and rehabilitation may be provided in an institution located~~
 19 ~~within any state entering into such supplementary agreement. Such supplementary agreement~~
 20 ~~shall~~

21 ~~—(1)— Provide the rates to be paid for the care, treatment and custody of such delinquent~~
 22 ~~juveniles, taking into consideration the character of facilities, services and~~
 23 ~~subsistence furnished;~~

24 ~~—(2)— Provide that the delinquent juvenile shall be given a court hearing prior to his being~~

1 sent to another state for care, treatment, and custody;

2 ~~— (3) — Provide that the state receiving such a delinquent juvenile in one of its institutions~~
3 ~~shall act solely as agent for the state sending such delinquent juvenile;~~

4 ~~— (4) — Provide that the sending state shall at all times retain jurisdiction over delinquent~~
5 ~~juveniles sent to an institution in another state;~~

6 ~~— (5) — Provide for reasonable inspection of such institutions by the sending state;~~

7 ~~— (6) — Provide that the consent of the parent, guardian, person or agency entitled to the legal~~
8 ~~custody of said delinquent juvenile shall be secured prior to his being sent to another~~
9 ~~state; and~~

10 ~~— (7) — Make provision for such other matters and details as shall be necessary to protect the~~
11 ~~rights and equities of such delinquent juveniles and of the cooperating states.~~

12 ~~ARTICLE XI~~

13 ~~— That any state party to this compact may accept any and all donations, gifts and grants of~~
14 ~~money, equipment, and services from the federal or any local government, or any agency thereof~~
15 ~~and from any person, firm or corporation, for any of the purposes and functions of this compact,~~
16 ~~and may receive and utilize the same subject to the terms, conditions, and regulations governing~~
17 ~~such donations, gifts, and grants.~~

18 ~~ARTICLE XII~~

19 ~~— That the Governor of each state party to this compact shall designate an officer who, acting~~
20 ~~jointly with like officers of other party states, shall promulgate rules and regulations to carry out~~
21 ~~more effectively the terms and provisions of this compact.~~

22 ~~ARTICLE XIII~~

23 ~~— That this compact shall become operative immediately upon its execution by any state as~~
24 ~~between it and any other state or states so executing. When executed it shall have the full force~~

1 and effect of law within such state, the form of execution to be in accordance with the laws of
2 the executing state.

3 ARTICLE XIV

4 — That this compact shall continue in force and remain binding upon each executing state until
5 renounced by it. Renunciation of this compact shall be by the same authority which executed
6 it, by sending six months' notice in writing of its intention to withdraw from the compact to the
7 other states party hereto. The duties and obligations of a renouncing state under Article VII
8 hereof shall continue as to parolees and probationers residing therein at the time of withdrawal
9 until retaken or finally discharged. Supplementary agreements entered into under Article X
10 hereof shall be subject to renunciation as provided by such supplementary agreements, and shall
11 not be subject to the six months' renunciation notice of the present Article.

12 ARTICLE XV

13 — That the provisions of this compact shall be severable and if any phrase, clause, sentence,
14 or provision of this compact is declared to be contrary to the constitution of any participating
15 state or of the United States or the applicability thereof to any government, agency, person, or
16 circumstance is held invalid, the validity of the remainder of this compact and the applicability
17 thereof to any government, agency, person, or circumstance shall not be affected thereby. If this
18 compact shall be held contrary to the constitution of any state participating therein, the compact
19 shall remain in full force and effect as to the remaining states and in full force and effect as to
20 the state affected as to all severable matters.

21 Section 3. That § 26-12-2 be repealed.

22 — 26-12-2. As used in the interstate compact on juveniles, the following words and phrases
23 have the following meanings as to this state:

24 — (1) — "Executive authority" means the compact administrator;

1 ~~—(2)—~~ The "appropriate court" of this state to issue a requisition under Article IV of the
2 compact is the circuit court for the county of the petitioner's residence, or, if the
3 petitioner is the Department of Social Services, any circuit court in the state;

4 ~~—(3)—~~ The "appropriate court" of this state to receive a requisition under Article IV or V of
5 the compact is the circuit court for the county where the juvenile is located.

6 Section 4. That § 26-12-3 be repealed.

7 ~~—26-12-3.~~ Pursuant to the interstate compact on juveniles, the Governor may designate the
8 director of court services for the Unified Judicial System to be the compact administrator, who,
9 acting jointly with like officers of other party states, shall promulgate rules to carry out more
10 effectively the terms of the compact. He shall serve as compact administrator subject to the
11 pleasure of the Governor.

12 Section 5. That § 26-12-4 be repealed.

13 ~~—26-12-4.~~ The compact administrator shall determine for this state whether to receive juvenile
14 probationers and parolees of other states pursuant to Article VII of the interstate compact on
15 juveniles.

16 Section 6. That § 26-12-5 be repealed.

17 ~~—26-12-5.~~ The compact administrator shall arrange for the supervision of each such
18 probationer or parolee so received by a court services officer in the circuit where the juvenile
19 is to reside, who shall make periodic reports to the compact administrator regarding the conduct
20 and progress of such juveniles.

21 Section 7. That § 26-12-6 be repealed.

22 ~~—26-12-6.~~ The compact administrator is authorized to enter into supplementary agreements
23 with appropriate officials of other states pursuant to Article X of the interstate compact on
24 juveniles. In the event that such supplementary agreement requires or contemplates the use of

1 ~~any institution or facility of this state or the provision of any service by this state, said~~
2 ~~supplementary agreement shall have no effect until approved by the department or agency under~~
3 ~~whose jurisdiction the institution or facility is operated or which shall be charged with the~~
4 ~~rendering of such service.~~

5 Section 8. That § 26-12-7 be repealed.

6 ~~—26-12-7. The compact administrator is authorized to cooperate with all departments,~~
7 ~~agencies, and officers of and in the government of this state and its political subdivisions in~~
8 ~~facilitating the proper administration of the compact or of any supplementary agreement entered~~
9 ~~into by this state thereunder.~~

10 Section 9. That § 26-12-8 be repealed.

11 ~~—26-12-8. The expense of returning juveniles to this state pursuant to the interstate compact~~
12 ~~on juveniles shall be paid as provided by §§ 26-12-9 to 26-12-11, inclusive.~~

13 Section 10. That § 26-12-9 be repealed.

14 ~~—26-12-9. In the case of a runaway under Article IV of the compact, the court making the~~
15 ~~requisition shall inquire summarily regarding the financial ability of the petitioner to bear the~~
16 ~~expense and if it finds he is able to do so, shall order that he pay all such expenses; otherwise~~
17 ~~the court shall arrange for the transportation at the expense of the county and order that the~~
18 ~~county reimburse the person, if any, who returns the juvenile, for his actual and necessary~~
19 ~~expenses; and the court may order that the petitioner reimburse the county for so much of said~~
20 ~~expense as the court finds he is able to pay. If the petitioner fails, without good cause, or refuses~~
21 ~~to pay such sum, he may be proceeded against for contempt.~~

22 Section 11. That § 26-12-10 be repealed.

23 ~~—26-12-10. In the case of an escapee or absconder under Article V or Article VI of the~~
24 ~~compact, if the juvenile is in the legal custody of the state training school, it should bear the~~

1 ~~expense of his return. If he is an absconder from parole supervision, the Department of~~
2 ~~Corrections should bear such expense; otherwise the appropriate court shall, on petition of the~~
3 ~~person or agency entitled to his custody or charged with his supervision, arrange for the~~
4 ~~transportation at the expense of the county and order that the county reimburse the person, if~~
5 ~~any, who returns the juvenile, for his actual and necessary expenses. In this section "appropriate~~
6 ~~court" means the circuit court which adjudged the juvenile to be delinquent or, if the juvenile~~
7 ~~is under supervision of another state under Article VII of the compact, then the circuit court for~~
8 ~~the county of the juvenile's residence during such supervision.~~

9 Section 12. That § 26-12-11 be repealed.

10 ~~—26-12-11. In the case of a voluntary return of a runaway without requisition under Article~~
11 ~~VI of the compact, the person entitled to his legal custody shall pay the expense of~~
12 ~~transportation and the actual and necessary expense of the person, if any, who returns such~~
13 ~~juvenile; but if he is financially unable to pay all the expenses he may petition the circuit court~~
14 ~~for the county of the petitioner's residence for an order arranging for the transportation as~~
15 ~~provided in § 26-12-9. The court shall inquire summarily into the financial ability of the~~
16 ~~petitioner and, if it finds he is unable to bear any or all of the expense, the court shall arrange~~
17 ~~for such transportation at the expense of the county and shall order the county to reimburse the~~
18 ~~person, if any, who returns the juvenile, for his actual and necessary expenses. The court may~~
19 ~~order that the petitioner reimburse the county for so much of said expense as the court finds he~~
20 ~~is able to pay. If the petitioner fails, without good cause, or refuses to pay such sum, he may be~~
21 ~~proceeded against for contempt.~~

22 Section 13. That § 26-12-12 be repealed.

23 ~~—26-12-12. Any judge of this state who appoints counsel or a guardian ad litem pursuant to~~
24 ~~the provisions of the interstate compact on juveniles may, in his discretion, allow a reasonable~~

1 ~~fee to be paid by the county on order of the court.~~

2 Section 14. That § 26-12-13 be repealed.

3 ~~—26-12-13. The courts, departments, agencies, and officers of this state and its political~~
4 ~~subdivisions shall enforce the interstate compact on juveniles and shall do all things appropriate~~
5 ~~to the effectuation of its purposes which may be within their respective jurisdiction.~~

6 Section 15. That § 26-12-14 be repealed.

7 ~~—26-12-14. All provisions and procedures of Articles V and VI of § 26-12-1 apply to any~~
8 ~~criminal law. Any juvenile, charged with being a delinquent by reason of violating any criminal~~
9 ~~law, shall be returned to the requesting state upon a requisition to the state where the juvenile~~
10 ~~may be found. A petition in such case shall be filed in a court of competent jurisdiction in the~~
11 ~~requesting state where the violation of criminal law is alleged to have been committed. The~~
12 ~~petition may be filed regardless of whether the juvenile has left the state before or after the filing~~
13 ~~of the petition. The requisition described in Article V of § 26-12-1 shall be forwarded by the~~
14 ~~judge of the court in which the petition has been filed.~~

15 Section 16. The provisions of this Act are effective upon receipt of written notification by
16 the Office of the Secretary of State from the state court administrator of the Unified Judicial
17 System that the Interstate Compact on Juveniles has become effective pursuant to Article X
18 because of its enactment by thirty-five compacting states. The state court administrator shall also
19 give timely written notification to the Department of Corrections and to the Code Commission.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

229J0160

HOUSE HEALTH AND HUMAN SERVICES
COMMITTEE ENGROSSED NO. **HB 1111** -
01/26/2004

Introduced by: Representatives Van Etten, Buckingham, Christensen, Cradduck, Elliott, Frost, Fryslic, Glenski, Hunhoff, Konold, LaRue, McCoy, McLaughlin, Michels, Murschel, Olson (Mel), Rave, Sebert, Thompson, and Weems and Senators Olson (Ed), Albers, Dempster, Duniphan, Ham-Burr, Knudson, Kooistra, Sutton (Dan), and Sutton (Duane)

1 FOR AN ACT ENTITLED, An Act to clarify the regulation of ephedrine and to declare an
2 emergency.

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

4 Section 1. For the purposes of § 34-20B-19, the term, ephedrine means ephedra, herbs and
5 herbal products that contain ephedrine alkaloids, including ma huang, Chinese ephedra, ephedra
6 sinica, ephedra herb powder, epitonin, or any extract of those substances, but the term does not
7 include any drug that contains ephedrine and is lawfully sold, transferred, or furnished over the
8 counter with or without a prescription pursuant to § 34-20B-21.

9 Section 2. Whereas, this Act is necessary for the immediate preservation of the public peace,
10 health, or safety, an emergency is hereby declared to exist, and this Act shall be in full force and
11 effect from and after its passage and approval.



State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

990J0038

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1213** - 01/26/2004

Introduced by: Representatives Engels, Bartling, Bradford, Burg, Christensen, Hargens, Hundstad, Kroger, Lange, Miles, Murschel, Olson (Mel), Peterson (Bill), Peterson (Jim), Rounds, Sigdestad, and Thompson and Senators Dempster, de Hueck, Knudson, Koetzle, Kooistra, Moore, and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to revise the list of elected officials who may fill a vacancy
2 in the office of the Governor.

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

4 Section 1. That § 1-7-4.1 be amended to read as follows:

5 1-7-4.1. If during a vacancy in the Office of Governor, the office of lieutenant governor shall
6 become vacant through death, resignation, failure to qualify, conviction after impeachment, or
7 permanent disability of the lieutenant governor, the following, in the order hereinafter
8 enumerated, shall succeed to the office and powers of the Governor:

- 9 (1) Speaker of the House of Representatives;₂
10 (2) President pro-tem of the Senate;₂
11 (3) Speaker pro-tem of the House of Representatives;
12 (4) Secretary of state;
13 (5) Attorney General;
14 (6) Auditor;



- 1 (7) Treasurer;
- 2 (8) Commissioner of School and Public Lands;
- 3 (9) Chair of the Public Utilities Commission; or
- 4 (10) Public Utilities Commissioners in order of seniority.