

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

455J0120

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1145** - 02/11/2004

Introduced by: Representatives Dykstra, Haverly, McCaulley, and Van Gerpen and Senators Dempster, Duenwald, Kelly, Knudson, Koskan, and Symens

1 FOR AN ACT ENTITLED, An Act to establish the South Dakota entrepreneur support subfund
2 and to provide for its funding and disbursement.

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

4 Section 1. That chapter 1-16G be amended by adding thereto a NEW SECTION to read as
5 follows:

6 There is hereby created within the revolving economic development and initiative fund,
7 created in § 1-16G-3, the South Dakota entrepreneur support program. The purpose of the
8 program is to make loans to South Dakota entrepreneurs and South Dakota start-up businesses
9 to develop and promote new business activity and to create employment in the state.

10 Section 2. That chapter 1-16G be amended by adding thereto a NEW SECTION to read as
11 follows:

12 For purposes of this Act, the term, start-up business, means any new business venture in the
13 technology, communications, service, or manufacturing sector.

14 Section 3. That chapter 1-16G be amended by adding thereto a NEW SECTION to read as
15 follows:



1 The Board of Economic Development shall designate up to three million dollars of the
2 money in the revolving economic development and initiative fund for the purposes of the South
3 Dakota entrepreneur support program.

4 Section 4. That chapter 1-16G be amended by adding thereto a NEW SECTION to read as
5 follows:

6 The Board of Economic Development shall administer the South Dakota entrepreneur
7 support program and make loans under the following terms:

8 (1) No loan may be for less than thirty thousand dollars or for more than fifty thousand
9 dollars;

10 (2) Each loan applicant shall provide for a matching amount of funds available from
11 non-state sources equal to the amount of the loan. No in-kind amounts or services
12 may be included in the matching funds; and

13 (3) Each loan may be made on an unsecured basis unless security is available. The loan
14 shall be set up for repayment of the principle plus accrued interest beginning on the
15 third anniversary date of the loan approval date with a balloon payment after the
16 seventh anniversary of the loan anniversary date. However, the board may grant a
17 further two-year extension before repayment begins.

18 Section 5. That chapter 1-16G be amended by adding thereto a NEW SECTION to read as
19 follows:

20 An applicant for a loan pursuant to this Act shall meet the following criteria:

21 (1) An innovative business concept with a reasonable probability of creating a new
22 market or filling an existing market need;

23 (2) A three-year strategic plan for developing the business, creating jobs, and sourcing
24 qualified employees to execute the plan with sufficient justification to support the

1 amount of the request; and

2 (3) Demonstrable support from economic development and academic professionals or
3 business consultants who can provide advice and guidance to the applicant.

4 Section 6. That chapter 1-16G be amended by adding thereto a NEW SECTION to read as
5 follows:

6 In connection with the administration of the South Dakota entrepreneur support program,
7 the Board of Economic Development may, pursuant to chapter 1-26, promulgate rules to:

8 (1) Set the application procedures for those who apply for loans from the fund;

9 (2) Establish criteria to determine how loan funds shall be awarded and distributed to
10 applicants;

11 (3) Govern the use of proceeds of the loans; and

12 (4) Establish criteria for the terms and conditions upon which the loans shall be made.

13 Section 7. That § 1-16G-24 be amended to read as follows:

14 1-16G-24. Earnings on the revolving economic development and initiative fund, the South
15 Dakota entrepreneur program, and the value added agriculture ~~subfund~~ fund may be used for
16 the administrative costs of the Division of Finance of the Governor's Office of Economic
17 Development. Such earnings shall be expended in accordance with the provisions of Title 4 on
18 warrants drawn by the state auditor on vouchers approved by the commissioner of the
19 Governor's Office of Economic Development. Eligible expenses may not exceed total interest
20 earnings during the previous fiscal year prior to the deduction of loan losses for the same fiscal
21 year.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

707J0571

HOUSE APPROPRIATIONS COMMITTEE ENGROSSED

NO. **HB 1152** - 02/10/2004

Introduced by: Representatives Konold, Adelstein, Bartling, Begalka, Bradford, Buckingham, Christensen, Craddock, Cutler, Davis, Deadrick (Thomas), Dykstra, Elliott, Frost, Garnos, Gassman, Gillespie, Glenski, Hackl, Hanson, Hargens, Haverly, Heineman, Hennies, Hundstad, Hunhoff, Juhnke, Klaudt, Kraus, Kroger, Lange, LaRue, Lintz, Madsen, McCaulley, McCoy, McLaughlin, Michels, Miles, Murschel, Novstrup, O'Brien, Olson (Mel), Olson (Ryan), Pederson (Gordon), Peterson (Bill), Peterson (Jim), Rave, Rounds, Schafer, Sebert, Sigdestad, Smidt, Solum, Teupel, Thompson, Valandra, Van Etten, Van Gerpen, Van Norman, Weems, and Wick and Senators Apa, Abdallah, Albers, Bogue, Brown, de Hueck, Dempster, Dennert, Diedrich (Larry), Duenwald, Duniphan, Duxbury, Earley, Greenfield, Ham-Burr, Jaspers, Kelly, Kleven, Kloucek, Knudson, Koetzle, Koskan, LaPointe, McCracken, Moore, Nachtigal, Napoli, Olson (Ed), Reedy, Schoenbeck, Sutton (Dan), Sutton (Duane), Symens, and Vitter

1 FOR AN ACT ENTITLED, An Act to authorize the South Dakota Building Authority, the
2 Office of the Attorney General, and the Department of Public Safety to contract for the
3 construction of a law enforcement training academy, a criminal forensic laboratory, and a
4 criminal justice and emergency operations center building in Pierre, to make an
5 appropriation therefor, and to declare an emergency.

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

7 Section 1. It is in the public interest that the South Dakota Building Authority, the Office
8 of the Attorney General, and the Department of Public Safety may contract for the construction,
9 completion, furnishing, equipping, and maintaining of a law enforcement training academy, a



1 criminal forensic laboratory, and a criminal justice and emergency operations center building
2 in Pierre, including heating, air conditioning, plumbing, water, sewer, electric facilities,
3 architectural and engineering services, asbestos abatement, site preparation, and the construction
4 of sidewalks and driveways and landscaping the grounds of that facility, and such other services
5 as may be required to accomplish the purposes of this Act, all at the estimated cost of twenty-
6 one million three hundred thirty thousand dollars.

7 Section 2. There is hereby appropriated from the state general fund the sum of seven million
8 twenty thousand five hundred dollars (\$7,020,500) to the Office of the Attorney General and one
9 million one hundred forty-four thousand five hundred dollars (\$1,144,500) to the Department
10 of Public Safety for the purposes of this Act.

11 Section 3. There is hereby appropriated the sum of five million dollars (\$5,000,000), or so
12 much thereof as may be necessary, in federal fund expenditure authority to the Department of
13 Public Safety for the purposes of construction, completion, furnishing, equipping, and
14 maintaining of an emergency operations center.

15 Section 4. Beginning July 1, 2005, the South Dakota Building Authority may issue revenue
16 bonds in accordance with this Act and chapter 5-12. In no event may the building authority issue
17 bonds for more than eight million one hundred sixty-five thousand dollars.

18 Section 5. No indebtedness, bond, or obligation incurred or created under the authority of
19 this Act may be or may become a lien, charge, or liability against the State of South Dakota, nor
20 against the property or funds of the State of South Dakota within the meaning of the
21 Constitution or statutes of the state.

22 Section 6. The South Dakota Building Authority, the Office of the Attorney General, and
23 the Department of Public Safety may accept, transfer, and expend any funds obtained for these
24 purposes from federal sources, gifts, contributions, or any other source, all of which shall be

1 deemed appropriated to this construction.

2 Section 7. The administration of the design and construction of these facilities and oversight
3 of building committees appointed therefor, as provided in § 5-14-3 shall be under the general
4 charge and supervision of the commissioner of the Bureau of Administration, the attorney
5 general, the secretary of the Department of Public Safety, and the executive secretary of the
6 building authority. The executive secretary of the building authority, the commissioner, the
7 attorney general, and the secretary of the Department of Public Safety shall approve vouchers
8 and the state auditor shall draw warrants to pay expenditures authorized by this Act.

9 Section 8. The attorney general or the secretary of the Department of Public Safety may
10 make and enter into a lease agreement with the building authority and make rental payments
11 under the terms thereof, pursuant to chapter 5-12, from appropriations to be made by the
12 Legislature for the payment of such rent and to support the construction, completion, furnishing,
13 equipping, and payment of revenue bonds issued pursuant to this Act.

14 Section 9. Any amounts appropriated in this Act not lawfully expended or obligated by
15 June 30, 2008, shall revert in accordance with § 4-8-21.

16 Section 10. Whereas, this Act is necessary for the support of the state government and its
17 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in
18 full force and effect from and after its passage and approval.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

391J0406

HOUSE HEALTH AND HUMAN SERVICES
COMMITTEE ENGROSSED NO. **HB 1159** -
02/09/2004

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

Introduced by: Representatives Cutler, Begalka, Deadrick (Thomas), Garnos, Hackl, Haverly, Konold, Kraus, Thompson, and Weems and Senators Schoenbeck, Dempster, Moore, Olson (Ed), and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to prohibit certain persons from providing care and
2 supervision for children in child welfare agencies, registered family day care homes, and
3 unregistered family day care homes and to declare an emergency.

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

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

6 26-6-14.10. No person who has been convicted of child abuse pursuant to chapter 26-10~~or~~;
7 a sex offense pursuant to chapter 22-22; or, within the preceding five years, any other felony;
8 and no person whose name appears on the central registry for child abuse and neglect may:

- 9 (1) Be licensed to operate a child welfare agency pursuant to § 26-6-14;
10 (2) Be registered to operate a family day care home pursuant to § 26-6-14.2; or
11 (3) Operate an unregistered family day care home as defined in § 26-6-14.8.

12 Any person who has actual knowledge that some other person is violating this section and
13 who subsequently fails to report such violation to the state's attorney or local law enforcement



1 is guilty of a Class 1 misdemeanor.

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

3 26-6-14.11. Any person who has been convicted of child abuse pursuant to chapter 26-10
4 ~~or;~~ a sex offense pursuant to chapter 22-22; or, within the preceding five years, any other
5 felony; or whose name appears on the central registry for child abuse and neglect is guilty of a
6 Class 1 misdemeanor if such person:

7 ~~—(1)—~~ Provides resides or works or provides care and supervision of children ~~either in a day~~
8 ~~care center~~ any child welfare agency or any family day care home; ~~or~~

9 ~~—(2)—~~ Permits. Any person who permits another person to reside or work or provide care
10 and supervision of children in any child welfare agency or any family day care home
11 knowing that the person has been convicted of child abuse pursuant to chapter 26-10
12 ~~or;~~ a sex offense pursuant to chapter 22-22; or, within the preceding five years, any
13 other felony; or ~~whose~~ knowing that the person's name appears on the central registry
14 for child abuse and neglect ~~to reside or work on the premises of a day care center or~~
15 ~~any family day care home,~~ is guilty of a Class 1 misdemeanor.

16 Section 3. Whereas, this Act is necessary for the immediate preservation of the public peace,
17 health, or safety, an emergency is hereby declared to exist, and this Act shall be in full force and
18 effect from and after its passage and approval.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

391J0272

HOUSE COMMERCE COMMITTEE ENGROSSED NO.

HB 1185 - 02/10/2004

Introduced by: Representatives Novstrup, Davis, Elliott, Hackl, Kraus, LaRue, McCaulley, Rhoden, and Solum and Senators Duenwald, Dennert, Kelly, Kooistra, Koskan, Schoenbeck, and Sutton (Duane)

1 FOR AN ACT ENTITLED, An Act to revise the definition of misconduct for purposes of
2 denying unemployment benefits.

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

4 Section 1. That § 61-6-14.1 be amended to read as follows:

5 61-6-14.1. As used in this chapter, misconduct is:

- 6 (1) Failure to obey orders, rules, or instructions, or failure to discharge the duties for
7 which an individual was employed; or
- 8 (2) Substantial disregard of the employer's interests or of the employee's duties and
9 obligations to ~~his~~ the employer; or
- 10 (3) Conduct evincing such willful or wanton disregard of an employer's interests as is
11 found in deliberate violations or disregard of standards of behavior which the
12 employer has the right to expect of ~~his~~ an employee; or
- 13 (4) Carelessness or negligence of such degree or recurrence as to manifest equal
14 culpability or wrongful intent.



1 However, ~~mere inefficiency, unsatisfactory conduct,~~ failure to perform as the result of
2 inability or incapacity, a good faith error in judgment or discretion, or conduct mandated by a
3 religious belief which belief cannot be reasonably accommodated by the employer is not
4 misconduct.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

348J0121

HOUSE TAXATION COMMITTEE ENGROSSED NO.

HB 1187 - 02/07/2004

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

Introduced by: Representatives Konold, Frost, and Novstrup and Senators Dennert, Brown, and McCracken

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to the assessment and
2 valuation of real property.

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

4 Section 1. That § 10-6-33.24 be amended to read as follows:

5 10-6-33.24. Notwithstanding the provisions of chapter 10-6, agricultural land may be
6 assessed based on its agricultural income value if there are less than ~~fifteen~~ twenty arms-length
7 transactions of agricultural land during the three preceding assessment years. The agricultural
8 income value of agricultural land shall be determined on the basis of the capitalized annual cash
9 rent of the agricultural land. The capitalized annual cash rent shall be based on data collected
10 and analyzed pursuant to § 10-6-33.25. For the purposes of this section, arms-length transactions
11 do not include any agricultural land sales subject to the provisions of § 10-6-33.14, 10-6-33.20,
12 or 10-6-74.

13 Section 2. That § 10-6-74 be amended to read as follows:

14 10-6-74. Any real property which sells for more than one hundred ~~fifty~~ seventy-five percent



1 of its assessed value, may not be used for the purpose of valuing other real property. The sale
2 of any real property which is not used for the purpose of valuing other real property pursuant
3 to this section may not be used in any sales ratio study.

4 Section 3. That § 10-6-74 be amended to read as follows:

5 10-6-74. Any real property which sells for more than ~~one~~ two hundred ~~fifty~~ percent of its
6 assessed value, may not be used for the purpose of valuing other real property. The sale of any
7 real property which is not used for the purpose of valuing other real property pursuant to this
8 section may not be used in any sales ratio study.

9 Section 4. Section 3 of this Act is effective on July 1, 2006.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

291J0177 **HOUSE APPROPRIATIONS COMMITTEE ENGROSSED**
NO. HB 1200 - 02/10/2004

Introduced by: Representative Williamson and Senator Ham-Burr

1 FOR AN ACT ENTITLED, An Act to authorize the inclusion of certain national guard
2 members in the public employee health insurance plan.

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

4 Section 1. That § 3-12A-1 be amended to read as follows:

5 3-12A-1. Terms as used in this chapter mean:

6 (1) "Commissioner," the commissioner of the Bureau of Personnel;

7 (2) "Covered employee," a public employee who is covered by the plan under the
8 dependent option;

9 (3) "Dependent," an employee's spouse and any unmarried child:

10 (a) Under the age of nineteen years, or

11 (b) Under the age of twenty-three and who is dependent upon the employee for
12 support and who is enrolled as a full-time student, or

13 (c) Regardless of age who is incapable of self-support because of mental or
14 physical incapacity that existed prior to ~~his~~ the dependent person reaching the
15 age of nineteen years;



1 (4) "Employer" or "participating employer," the State of South Dakota;

2 (5) "Member," a public employee who is covered by the plan as the primary insured and
3 who has the option to elect to have ~~his~~ the member's dependents covered by the plan;

4 (6) "National guard service member," any member of a unit of the South Dakota
5 National Guard who is not otherwise covered or eligible to be covered by a
6 governmental health insurance plan or employer health insurance plan;

7 (7) "Plan" or "insurance plan," the public employee's insurance plan as created by this
8 chapter;

9 ~~(7)~~(8) "Premium," the dollar amount established by the commissioner sufficient to cover
10 the cost of the insurance plan;

11 ~~(8)~~(9) "Public employee," any person employed by the State of South Dakota or any agency,
12 board, or commission thereof, on a permanent full-time basis and whose
13 compensation is payable in whole or in part by the state. In any case of doubt as to
14 who is an employee within the meaning of this chapter, the commissioner shall
15 decide the question;

16 ~~(9)~~(10) "State," the State of South Dakota, or where applicable any agency, board, or
17 commission thereof.

18 Section 2. That § 3-12A-2 be amended to read as follows:

19 3-12A-2. The Bureau of Personnel may establish a group health insurance plan, a group
20 dental insurance plan, or both, for employees of the state. The plan may provide for group health
21 and dental insurance against the financial cost of hospital, surgical, and medical treatment and
22 care, and such other coverage or benefits, including a group life insurance plan and a group
23 disability income insurance plan, as may be deemed appropriate and desirable by the
24 commissioner. The commissioner may design a cafeteria-style benefit plan which allows an

1 employee to choose ~~his~~ the employee's own benefits or levels of coverage.

2 The Bureau of Personnel may establish a group health insurance plan, a group dental
3 insurance plan, or both, for national guard service members. The plan may provide for group
4 health and dental insurance against the financial cost of hospital, surgical, and medical treatment
5 and care.

6 The Bureau of Personnel may promulgate rules pursuant to chapter 1-26 to establish uniform
7 procedures for the administration of ~~the~~ any plan and to provide for uniform application of the
8 plan. The rules may be adopted in the following areas:

- 9 (1) Participation in the plan by employees, retired employees, national guard service
10 members, and dependents;
- 11 (2) Procedures for election of coverage;
- 12 (3) Effective dates of coverage where not specified by statute;
- 13 (4) Termination of coverage;
- 14 (5) Changes in dependent coverage; and
- 15 (6) Collection of premiums.

16 Section 3. That chapter 3-12A be amended by adding thereto a NEW SECTION to read as
17 follows:

18 Any member of a unit of the South Dakota Army National Guard or South Dakota Air
19 National Guard who is not otherwise covered or eligible to be covered by a governmental health
20 insurance plan or employer health insurance plan is eligible for health insurance coverage under
21 this chapter if authorized by the Bureau of Personnel. The terms of such coverage may be
22 specified in rules promulgated by the Bureau of Personnel pursuant to chapter 1-26 and may be
23 implemented in the contract or contracts executed pursuant to § 3-12A-5.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

841J0539 **HOUSE APPROPRIATIONS COMMITTEE ENGROSSED**
NO. HB 1218 - 02/10/2004

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

Introduced by: Representatives Van Etten, Adelstein, Bartling, Christensen, Elliott, Frost, Glenski, Hanson, Hunhoff, Kraus, Lange, LaRue, McCoy, Michels, Miles, Peterson (Bill), Peterson (Jim), Rave, Thompson, and Weems and Senators Sutton (Duane), Brown, Dempster, Ham-Burr, Knudson, McCracken, Reedy, Schoenbeck, and Symens

1 FOR AN ACT ENTITLED, An Act to direct the expenditure of education enhancement trust
2 fund earnings and direct the Department of Health to report to the Legislature.

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

4 Section 1. The earnings form the education enhancement trust fund created in S.D. Const.,
5 Art. XII, § 6, pursuant to § 4-5-29.2, once the earnings are transferred to the general fund in
6 FY2005, are hereby directed to be spent in the following manner:

| | |
|---------------------------------------------------|---------------------|
| 7 (1) Department of Health, | |
| 8 Tobacco Prevention Education | \$1,000,000 |
| 9 (2) Unallocated amount | <u>\$13,321,513</u> |
| 10 | \$14,321,513 |

11 Section 2. That § 34-46-11 be amended to read as follows:

12 34-46-11. The Department of Health shall submit an annual report to the Governor and the
13 Legislature not later than October first of each year. The annual report shall detail the progress



1 toward meeting program goals and objectives, including reporting on changes in tobacco
2 consumption, tobacco use rates, and attitudes towards tobacco, especially among children and
3 other high risk populations; the name and location of organizations receiving grant or contract
4 awards, the amount and duration of such awards and their purpose; and total program spending
5 and sources of funding for the prior fiscal year within each program area outlined in § 34-46-10.
6 The secretary shall make the report available electronically by posting such report on the
7 Department of Health's website not later than thirty days after the report is submitted to the
8 Governor and the Legislature.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

275J0573

HOUSE APPROPRIATIONS COMMITTEE ENGROSSED

NO. **HB 1223** - 02/10/2004

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

Introduced by: Representatives Peterson (Bill), Bartling, Begalka, Bradford, Buckingham, Christensen, Craddock, Cutler, Deadrick (Thomas), Dykstra, Elliott, Engels, Frost, Garnos, Gassman, Gillespie, Glenski, Hackl, Hanson, Hargens, Hennies, Hundstad, Hunhoff, Juhnke, Konold, Kraus, Kroger, LaRue, Madsen, McCoy, McLaughlin, Michels, Miles, Murschel, Nesselhuf, Novstrup, O'Brien, Olson (Mel), Olson (Ryan), Pederson (Gordon), Peterson (Jim), Rave, Rhoden, Rounds, Schafer, Sebert, Sigdestad, Smidt, Solum, Teupel, Thompson, Valandra, Van Etten, Van Norman, Weems, and Wick and Senators Brown, Abdallah, Bogue, de Hueck, Dempster, Dennert, Duniphan, Ham-Burr, Kelly, Kloucek, Koetzle, McCracken, Moore, Nachtigal, Reedy, Schoenbeck, Sutton (Dan), Symens, and Vitter

1 FOR AN ACT ENTITLED, An Act to direct the expenditure of education enhancement trust
2 fund earnings in the state.

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

4 Section 1. The earnings from the education enhancement trust fund created in S.D. Const.,
5 Art. XII, § 6, pursuant to § 4-5-29.2, once the earnings are transferred to the general fund in
6 FY2005, are hereby directed to be spent in the following manner:

7 (1) Department of Education,

8 State Aid for Technology in Schools \$3,553,385

9 (2) Department of Education,

10 State Aid to General Education and State Aid to Special Education \$7,762,392



| | | |
|---|------------------------------------|--------------------|
| 1 | (3) Department of Education, | |
| 2 | Postsecondary Vocational Education | \$800,000 |
| 3 | (4) Board of Regents, | |
| 4 | Regents Scholarship | \$650,000 |
| 5 | (5) Unallocated amount | <u>\$1,555,736</u> |
| 6 | | \$14,321,513 |

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

554J0548

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1227** - 02/11/2004

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

Introduced by: Representatives Bradford, Bartling, Burg, Elliott, Engels, Gassman, Hargens, Kroger, Lange, Miles, Nesselhuf, Olson (Mel), Peterson (Jim), Sigdestad, Thompson, and Van Norman and Senators Koetzle and Nachtigal

1 FOR AN ACT ENTITLED, An Act to provide an exception to the fees that may be charged by
2 a notary public for certain instruments and to declare an emergency.

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

4 Section 1. That § 18-1-9 be amended to read as follows:

5 18-1-9. ~~Notaries~~ A notary public may charge and receive a fee not to exceed ten dollars for
6 each instrument notarized, except that no notary public may charge a fee for notarizing a request
7 for an absentee ballot.

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



State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

264J0512

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1247** - 02/07/2004

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

Introduced by: Representatives Hargens, Begalka, Klaudt, and Peterson (Jim) and Senators Napoli, Duenwald, and Kloucek

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to concealed handguns
2 in certain vehicles.

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

4 Section 1. That § 22-14-10 be amended to read as follows:

5 22-14-10. ~~Section 22-14-9 does~~ The provisions of § 22-14-9 do not apply to persons any
6 person who ~~carry~~ carries one or more ~~unloaded~~ pistols or revolvers for the purpose of, or in
7 connection with, any lawful use, if the ~~unloaded~~ weapon or weapons are carried:

8 (1) In the trunk or other closed compartment of a vehicle; or

9 (2) In a closed container which is too large to be effectively concealed on the person or
10 within ~~his~~ the person's clothing. The container may be carried in a vehicle or in any
11 other manner.

12 Any person who complies with this section may not be required to obtain a permit for the
13 lawful uses herein described.



State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

664J0630

HOUSE AGRICULTURE AND NATURAL RESOURCES

COMMITTEE ENGROSSED NO. **HB 1258** -

02/10/2004

Introduced by: Representatives Rhoden, Deadrick (Thomas), Dykstra, Elliott, Hanson, Hunhoff, Juhnke, Lintz, McCoy, Novstrup, Olson (Ryan), Peterson (Jim), and Sigdestad and Senators Duenwald, Kleven, Koskan, and Napoli

1 FOR AN ACT ENTITLED, An Act to restrict the entry of conservation officers onto certain
2 private land without permission.

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

4 Section 1. That chapter 41-2 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 No conservation officer may, in the course of performing the ordinary duties of a
7 conservation officer, enter any private land unless the conservation officer has the permission
8 of the landowner or the lessee. However, any conservation officer may enter any private land
9 without permission:

10 (1) If reasonable suspicion or probable cause exists that a violation of a law that the
11 conservation officer is authorized to enforce has been, is being, or is about to be
12 committed;

13 (2) To investigate a report of illegal hunting, fishing, or trapping activity;

14 (3) To dispatch crippled or distressed wildlife;



- 1 (4) To respond to emergency situations, accidents, or other threats to public safety.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

708J0728

HOUSE TAXATION COMMITTEE ENGROSSED NO.

HB 1281 - 02/10/2004

Introduced by: Representative Cradduck and Senator Jaspers

1 FOR AN ACT ENTITLED, An Act to provide for certain property tax exemptions for business
2 incubators owned by nonprofits.

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

4 Section 1. That chapter 10-4 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any business incubator owned or leased and operated by a local economic development
7 organization is eligible for an exemption from certain property taxes as provided in this section.

8 The governing body of the county, municipality, school district, township, or any other political
9 subdivision of this state in which the property is located may approve a tax exemption by
10 resolution after a determination of eligibility, public notice, and a hearing. If any governing body
11 intends to grant more than one exemption for business incubators, the governing body shall
12 adopt a separate resolution for each business incubator within its jurisdiction. No governing
13 body may grant approval for the business incubator until all of the applicant's taxes have been
14 paid in full. If the property is leased to a business incubator, no governing body may grant
15 approval until all of the owner's property taxes on that property have been paid in full. Payment



1 of taxes under protest does not preclude approval. Prior to holding the hearing, the governing
2 body shall determine that the local economic development organization:

- 3 (1) Is a private, nonprofit corporation and is exempt from taxation pursuant to section
4 501(c)(3), 501(c)(4), or 501(c)(6) of the Internal Revenue Code as of January 1,
5 2004;
- 6 (2) Is engaged in economic development and business assistance work in the area; and
- 7 (3) Owns and operates or will operate the business incubator.

8 The tax exemption described in this section applies only to the taxes levied by the governing
9 body approving the exemption over which the governing body has the ability to levy a property
10 tax upon.

11 Section 2. That § 13-13-20.4 be amended to read as follows:

12 13-13-20.4. The actual assessed valuation of any property given a reduced valuation
13 pursuant to §§ 10-6-35.1, 10-6-35.2, 10-6-35.4, 10-6-35.21, 10-6-35.22, 10-6-35.24, 10-6-35.25,
14 10-6-54, 10-6-55, 10-6-66, and 10-6-67 shall be used when calculating state aid to education.
15 For any property given a reduced valuation after November 1995, pursuant to §§ 10-6-35.1,
16 10-6-35.2, 10-6-35.4, 10-6-35.21, 10-6-35.22, 10-6-35.24, 10-6-35.25, 10-6-54, 10-6-55,
17 10-6-66, and 10-6-67 that has not previously received a reduced valuation pursuant to these
18 statutes, the portion of actual assessed valuation of the property used when calculating state aid
19 to education shall be twenty percent in the first year, forty percent in the second year, sixty
20 percent in the third year, eighty percent in the fourth year, and one hundred percent each year
21 thereafter. In addition, the actual assessed valuation of any property given exempt status
22 pursuant to section 1 of this Act shall be used when calculating state aid to education.

23 Section 3. That § 10-12-44 be amended to read as follows:

24 10-12-44. The county auditor in each school district shall raise additional revenue, for the

1 general fund and special education funds, from property taxes to compensate for tax abatement,
2 tax increment financing district, or discretionary formula as follows:

3 (1) For tax incremental districts created pursuant to chapter 11-9 and formed after
4 December 31, 1994, the county auditor shall levy an additional tax levy for an
5 amount not to exceed an amount equal to the sum of the levies in §§ 10-12-42 and
6 13-37-16 times the tax increment valuation as defined in § 11-9-1;

7 (2) For property subject to § 10-6-35.2, 10-6-35.12, 10-6-35.24, 10-6-35.25, 10-6-54,
8 10-6-55, or 10-6-67 the county auditor shall levy an additional tax levy for an amount
9 not to exceed the amount of taxes that were not collected due to the reduction in
10 valuation based on the maximum levies pursuant to §§ 10-12-42 and 13-37-16;

11 (3) For abated taxes the county auditor shall levy an additional tax levy for an amount
12 not to exceed the amount of the school district's portion of the taxes that were abated
13 pursuant to chapter 10-18 during the previous tax year;

14 (4) For properties given exempt status pursuant to section 1 of this Act.

15 The levies in this section are not subject to the referendum provision of § 10-12-43 and these
16 levies shall maintain the same proportion to each other as represented in the mathematical
17 relationship at the maximum levies pursuant to § 10-12-42.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

538J0699

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1282 - 02/11/2004

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

Introduced by: Representatives McCaulley, Bradford, Cutler, Haverly, Kraus, Rave, Rhoden, Schafer, Teupel, Thompson, and Weems and Senators Apa, Abdallah, and Jaspers

1 FOR AN ACT ENTITLED, An Act to prohibit recovery based on claims resulting from weight
2 gain, obesity, or a health condition resulting from long-term consumption of a qualified
3 product.

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

5 Section 1. Terms used in this Act mean:

6 (1) "Livestock," cattle, bison, swine, sheep, goats, horses, ratites, and captive cervidae;

7 (2) "Livestock producer," any producer of livestock;

8 (3) "Long-term consumption," the cumulative effect of the consumption of any qualified
9 product and not the effect of a single instance of consumption;

10 (4) "Qualified product," any food or drink as defined in section 201(f) of the Federal
11 Food Drug and Cosmetic Act (21 U.S.C. § 321(f)), in effect as of January 1, 2004,
12 and specifically including meat and meat products from livestock;

13 (5) "Seller," any person or entity lawfully engaged in the business of marketing,
14 distributing, advertising, or selling a qualified product;



1 (6) "Trade association," any association or business organization that is not operated for
2 profit, if two or more members are manufacturers, marketers, distributors, livestock
3 producers, advertisers, or sellers of a qualified product.

4 Section 2. No manufacturer, seller, trade association, livestock producer, or retailer of a
5 qualified product is subject to civil liability for injury or death in any case in which liability is
6 based on the individual's weight gain, obesity, or a health condition related to weight gain or
7 obesity, and the weight gain, obesity, or health condition results from the individual's long-term
8 consumption of a qualified product.

9 Section 3. Any civil action regarding a claim as set forth in section 2 of this Act that is
10 governed by the laws of South Dakota and that is pending on the date of the enactment of this
11 Act shall be subject to the terms of this Act.

12 Section 4. This Act may be cited as the Commonsense Consumption Act.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

555J0505

HOUSE TAXATION COMMITTEE ENGROSSED NO.

HB 1283 - 02/10/2004

Introduced by: Representatives Weems, Cutler, Hundstad, Lange, Novstrup, Peterson (Jim),
Schafer, Sigdestad, Thompson, Van Etten, and Van Gerpen and Senators de
Hueck, Greenfield, Kloucek, Kooistra, Moore, Schoenbeck, and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to exempt certain purchases of material used in the
2 production of greenhouse, nursery, and ornamental plants from sales and use taxes.

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

4 Section 1. That chapter 10-45 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 The purchase of any fertilizer, growth regulator, soil, container, and plant shine that is
7 directly used in the production of greenhouse, nursery, and ornamental plants intended to be sold
8 ultimately at retail within or without the State of South Dakota is hereby specifically exempted
9 from the tax imposed by chapter 10-45.

10 Section 2. That chapter 10-46 be amended by adding thereto a NEW SECTION to read as
11 follows:

12 The use in this state of any fertilizer, growth regulators, soil, containers, and plant shine
13 directly used in the production of greenhouse, nursery, and ornamental plants intended to be sold
14 ultimately at retail within or without the State of South Dakota is hereby specifically exempted



1 from the tax imposed by chapter 10-46.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

751J0593

HOUSE APPROPRIATIONS COMMITTEE ENGROSSED

NO. **HB 1285** - 02/10/2004

Introduced by: Representatives Nesselhuf, Cutler, Hennies, O'Brien, Olson (Ryan), and Weems and Senators Sutton (Dan), Albers, and Greenfield

1 FOR AN ACT ENTITLED, An Act to affect the premiums for persons with guarantee issue
2 health plans.

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

4 Section 1. That chapter 58-17 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any carrier of an in force individual health benefit plan issued in accordance with § 58-17-
7 85 prior to August 1, 2003, for which rates are established pursuant to § 58-17-75, who set and
8 charged a premium rate increase as authorized by § 58-17-142, shall report that premium rate
9 increase to the division. Only that portion of any premium rate increase attributable to the
10 enactment of § 58-17-142 may be included in the report required by this section. The reported
11 amount shall be paid to the carrier pursuant to section 2 of this Act. No carrier may charge the
12 reported amount to the insured.



State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

367J0446

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1297** - 02/11/2004

Introduced by: Representatives Rhoden, Bartling, Begalka, Cradduck, Deadrick (Thomas), Elliott, Fryslie, Gillespie, Hanson, Hargens, Hennies, Hunhoff, Juhnke, LaRue, Lintz, McCaulley, McCoy, Novstrup, Olson (Ryan), Rounds, Sigdestad, and Teupel and Senators Koskan, Duenwald, Kleven, and Napoli

1 FOR AN ACT ENTITLED, An Act to restrict the alienation of public state real property to the
2 federal government.

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

4 Section 1. Neither the State of South Dakota nor any of its state agencies or political
5 subdivisions may transfer title to any real property in this state to the federal government or any
6 federal agency unless the Legislature has conceded its explicit authorization by prior legislation.

7 Section 2. The provisions of section 1 of this Act do not apply:

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



1 the state government or any of its entities and the federal government or any of its
2 entities.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

615J0689

HOUSE AGRICULTURE AND NATURAL RESOURCES

COMMITTEE ENGROSSED NO. **HB 1300** -

02/10/2004

Introduced by: Representatives Klaudt, Begalka, Deadrick (Thomas), Fryslie, Gassman, Juhnke, Rave, Rhoden, Rounds, Teupel, and Van Gerpen and Senators Bogue, Diedrich (Larry), and Duenwald

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to aerial hunting.

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

3 Section 1. That § 41-8-39.1 be amended to read as follows:

4 41-8-39.1. Notwithstanding the provisions of § 41-8-39, any person occupying land as an
5 owner or lessee may ~~make application~~ apply to the Department of Game, Fish and Parks to
6 ~~obtain~~ for a permit to kill or attempt to kill coyotes or foxes from an aircraft to protect or aid in
7 the protection of the owner's or lessee's land, livestock, domesticated animals, or crops, water,
8 wildlife, or human life as permitted under PL 92-159, as amended to January 1, ~~1989~~ 2004, or
9 § 40-36-9. A permit may not be issued for the purpose of sport hunting. The permit authorizes
10 the owner or lessee, or a person who holds a valid aerial hunting permit issued by the
11 department and who is under contract with the owner or lessee, to kill or attempt to kill coyotes
12 or foxes from the aircraft on the occupied land and up to ~~two~~ four miles onto the land of the
13 immediate adjoining neighbor if the owner or lessee has first obtained the written consent of the
14 owner or lessee of the adjoining land. The Game, Fish and Parks Commission shall promulgate



1 rules pursuant to chapter 1-26 to establish the criteria and eligibility of the permittee and
2 conditions under which the permit is granted, number and species of animals to be hunted and
3 killed, location where permitted, reports required of the permittee, and other rules to implement
4 the provisions of this section.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

119J0566

HOUSE EDUCATION COMMITTEE ENGROSSED NO.

HB 1307 - 02/10/2004

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

Introduced by: Representatives Teupel, Klaudt, McCaulley, McLaughlin, and Peterson (Bill)
and Senators Knudson, Bogue, and McCracken

1 FOR AN ACT ENTITLED, An Act to revise the calculation of state aid to education.

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

3 Section 1. That § 13-13-10.1 be amended to read as follows:

4 13-13-10.1. Terms used in this chapter mean:

5 (1) "Average daily membership," the average number of resident and nonresident
6 kindergarten through twelfth grade pupils enrolled in all schools operated by the
7 school district during the previous regular school year, minus average number of
8 pupils for whom the district receives tuition, except pupils described in subdivision
9 (1A) and pupils for whom tuition is being paid pursuant to § 13-28-42 and plus the
10 average number of pupils for whom the district pays tuition;

11 (1A) Nonresident students who are in the care and custody of the Department of Social
12 Services, the Unified Judicial System, the Department of Corrections, or other state
13 agencies and are attending a public school may be included in the average daily
14 membership of the receiving district when enrolled in the receiving district. When



1 counting a student who meets these criteria in its general enrollment average daily
2 membership, the receiving district may begin the enrollment on the first day of
3 attendance. The district of residence prior to the custodial transfer may not include
4 students who meet these criteria in its general enrollment average daily membership
5 after the student ceases to attend school in the resident district;

6 (2) "Adjusted average daily membership," calculated as follows for all districts except
7 those defined in subdivision (2A):

8 (a) For districts with an average daily membership of two hundred or less,
9 multiply 1.2 times the average daily membership;

10 (b) For districts with an average daily membership of less than six hundred, but
11 greater than two hundred, raise the average daily membership to the 0.8293
12 power and multiply the result times 2.98;

13 (c) For districts with an average daily membership of six hundred or more,
14 multiply 1.0 times their average daily membership;

15 (2A) "Adjusted average daily membership," calculated as follows for districts larger than
16 three hundred square miles and that serve grades kindergarten through twelfth grade:

17 (a) For districts with an average daily membership of one hundred thirty or less,
18 multiply 1.3 times the average daily membership;

19 (b) For districts with an average daily membership of less than six hundred, but
20 greater than one hundred thirty, raise the average daily membership to the
21 0.8284523 power and multiply the result times 2.9963;

22 (c) For districts with an average daily membership of six hundred or more,
23 multiply 1.0 times their average daily membership;

24 (3) "Index factor," is the annual percentage change in the consumer price index for urban

1 wage earners and clerical workers as computed by the Bureau of Labor Statistics of
2 the United States Department of Labor for the year before the year immediately
3 preceding the year of adjustment or three percent, whichever is less;

4 (4) "Per student allocation," for school fiscal year 2004 is \$3,967.88. Each school fiscal
5 year thereafter, the per student allocation is the previous fiscal year's per student
6 allocation increased by the index factor;

7 (5) "Local need," the per student allocation multiplied by the adjusted average daily
8 membership;

9 (6) "Local effort," the amount of ad valorem taxes generated in a school fiscal year by
10 applying the levies established pursuant to § 10-12-42;

11 (7) "General fund balance," the unreserved fund balance of the general fund, less general
12 fund exclusions plus, beginning with transfers made in fiscal year 2001, any transfers
13 out of the general fund for the previous school fiscal year;

14 (8) "General fund balance percentage," is a school district's general fund balance divided
15 by the school district's total general fund expenditures for the previous school fiscal
16 year, the quotient expressed as a percent;

17 (9) "General fund base percentage," is the general fund balance percentage as of June 30,
18 2000. However, the general fund base percentage can never increase and can never
19 be less than twenty percent;

20 (10) "Allowable general fund balance," the fund base percentage multiplied by the
21 district's general fund expenditures in the previous school fiscal year;

22 (11) "Imputed interest rate," the average prime rate for the preceding fiscal year minus 2.5
23 percentage points;

24 (12) "General fund exclusions," revenue a school district has received from the imposition

1 of the excess tax levy pursuant to § 10-12-43; revenue a school district has received
2 from gifts, contributions, grants, or donations; revenue a school district has received
3 under the provisions of §§ 13-6-92 to 13-6-96, inclusive; and any revenue in the
4 general fund set aside for a noninsurable judgment.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

400J0776

HOUSE APPROPRIATIONS COMMITTEE ENGROSSED

NO. **HB 1308** - 02/10/2004

Introduced by: The Committee on Appropriations at the request of the Governor

1 FOR AN ACT ENTITLED, An Act to establish the sales tax on food refund program and to
2 make an appropriation therefor.

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

4 Section 1. There is established the sales tax on food refund program to be administered by
5 the Department of Social Services. The purpose of the program is to provide sales tax refunds
6 on food for purchases made in accordance with chapters 10-45 and 10-46 to South Dakota
7 families who need it most.

8 Section 2. To be eligible for the sales tax on food refund program, a person shall:

- 9 (1) Be a South Dakota resident;
- 10 (2) Be the head of the household and certify the number of persons in the household;
- 11 (3) Have countable income at or below one hundred fifty percent of the federal poverty
12 level, as updated annually by the United States Department of Health and Human
13 Services and published in the Federal Register.

14 Section 3. The Department of Social Services shall promulgate rules, pursuant to chapter
15 1-26, relating to:



- 1 (1) Eligibility criteria;
- 2 (2) Refund amounts or levels;
- 3 (3) Payment provisions;
- 4 (4) Household reporting requirements; and
- 5 (5) Recoveries.

6 Section 4. To receive sales tax on food refunds pursuant to this Act, a household shall:

- 7 (1) Apply for a quarterly refund on forms prescribed by the Department of Social
8 Services using the prior three month periods's income;
- 9 (2) Certify that any refund received will only be used to purchase food as defined in
10 sections 5 and 6 of this Act; and
- 11 (3) Report quarterly on forms prescribed by the Department of Social Services to
12 continue eligibility for a refund.

13 Section 5. That § 10-45-1 be amended by adding thereto four NEW SUBDIVISIONS to read
14 as follows:

15 "Food" and "food ingredient," any substance, whether in liquid, concentrated, solid, frozen,
16 dried, or dehydrated form, that is sold for ingestion or chewing by humans and is consumed for
17 its taste or nutritional value. The term, food, does not include alcoholic beverages, tobacco, or
18 prepared food;

19 "Soft drinks," any nonalcoholic beverages that contain natural or artificial sweeteners. The
20 term, soft drinks, does not include any beverage that contains milk or milk products, soy, rice
21 of similar milk substitutes, or greater than fifty percent of vegetable or fruit juice by volume;

22 "Candy," any preparation of sugar, honey, or other natural or artificial sweeteners in
23 combination with chocolate, fruits, nuts or other ingredients or flavorings in the form of bars,
24 drops, or pieces. The term, candy, does not include any preparation containing flour and does

1 not require refrigeration;

2 "Prepared food," any food sold in a heated state or heated by the seller. The term, prepared
3 food, does not include:

4 (a) Two or more food ingredients mixed or combined by the seller for sale as a single
5 item;

6 (b) Food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat,
7 poultry, and foods containing these raw animal foods requiring cooking by the
8 consumer as recommended by the Food and Drug Administration in chapter 3, part
9 401.11 of its Food Code as of January 1, 2003, so as to prevent food borne illnesses;
10 or

11 (c) Food sold with eating utensils provided by the seller, including plates, knives, forks,
12 spoons, glasses, cups, napkins, or straws. A plate does not include a container or
13 packaging used to transport the food.

14 Section 6. That § 10-46-1 be amended by adding thereto four NEW SUBDIVISIONS to read
15 as follows:

16 "Food" and "food ingredient," any substance, whether in liquid, concentrated, solid, frozen,
17 dried, or dehydrated form, that is sold for ingestion or chewing by humans and is consumed for
18 its taste or nutritional value. The term, food, does not include alcoholic beverages, tobacco, or
19 prepared food;

20 "Soft drinks," any nonalcoholic beverages that contain natural or artificial sweeteners. The
21 term, soft drinks, does not include any beverage that contains milk or milk products, soy, rice
22 of similar milk substitutes, or greater than fifty percent of vegetable or fruit juice by volume;

23 "Candy," any preparation of sugar, honey, or other natural or artificial sweeteners in
24 combination with chocolate, fruits, nuts or other ingredients or flavorings in the form of bars,

1 drops, or pieces. The term, candy, does not include any preparation containing flour and does
2 not require refrigeration;

3 "Prepared food," any food sold in a heated state or heated by the seller. The term, prepared
4 food, does not include:

5 (a) Two or more food ingredients mixed or combined by the seller for sale as a single
6 item;

7 (b) Food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat,
8 poultry, and foods containing these raw animal foods requiring cooking by the
9 consumer as recommended by the Food and Drug Administration in chapter 3, part
10 401.11 of its Food Code as of January 1, 2003, so as to prevent food borne illnesses;

11 or

12 (c) Food sold with eating utensils provided by the seller, including plates, knives, forks,
13 spoons, glasses, cups, napkins, or straws. A plate does not include a container or
14 packaging used to transport the food.

15 Section 7. At the time in which a household has been accepted into the sales tax on food
16 refund program, the household is entitled to a quarterly refund of the estimated amount of sales
17 tax on food paid as determined in section 8 of this Act.

18 Section 8. The estimate of sales tax on food paid or refund awarded under this program shall
19 be determined based on:

20 (1) The thrifty food plan as determined annually by the United States Department of
21 Agriculture; and

22 (2) The number of individuals in the household.

23 A monthly allotment shall be determined based on the thrifty food plan's maximum
24 allotment and the corresponding number of individuals in the household. Once the monthly

1 allotment is determined, it shall be annualized and multiplied by the average sales tax rate in
2 South Dakota as determined by the Department of Revenue and Regulation. This shall be the
3 annual level of refund eligible for the household. The annual refund shall be converted to a
4 quarterly refund. This shall be the amount of eligible refund to the household.

5 Section 9. If a household is a participant in the food stamp program for any of the period in
6 which a refund is computed under section 8 of this Act, those food stamp benefits shall be
7 deducted from any refund received under the provisions of this Act.

8 Section 10. The method of payment utilized to make payments authorized by this Act shall
9 be made by electronic debit card or by paper warrant.

10 Section 11. There is hereby appropriated from the state general fund the sum of five million
11 dollars (\$5,000,000), or so much thereof as may be necessary, and two million two hundred fifty
12 thousand dollars (\$2,250,000) of other fund expenditure authority, or so much thereof as may
13 be necessary, to the Department of Social Services for payment of eligible expenses authorized
14 by this Act .

15 Section 12. The secretary of the Department of Social Services shall approve vouchers and
16 the state auditor shall draw warrants to pay expenditures authorized by this Act.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

400J0774

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1311** - 02/11/2004

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

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

1 FOR AN ACT ENTITLED, An Act to provide for the regulation of pharmacy benefits
2 management.

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

4 Section 1. Terms used in this Act mean:

5 (1) "Covered entity," a nonprofit hospital or medical service corporation, health insurer,
6 health benefit plan, or health maintenance organization; a health program
7 administered by a department or the state in the capacity of provider of health
8 coverage; or an employer, labor union, or other group of persons organized in the
9 state that provides health coverage to covered individuals who are employed or reside
10 in the state. The term does not include a self-funded plan that is exempt from state
11 regulation pursuant to ERISA, a plan issued for coverage for federal employees, or
12 a health plan that provides coverage only for accidental injury, specified disease,
13 hospital indemnity, medicare supplement, disability income, long- term care, or other
14 limited benefit health insurance policies and contracts;

15 (2) "Covered individual," a member, participant, enrollee, contract holder, policy holder,



1 or beneficiary of a covered entity who is provided health coverage by the covered
2 entity. The term includes a dependent or other person provided health coverage
3 through a policy, contract, or plan for a covered individual;

4 (3) "Director," the director of the Division of Insurance;

5 (4) "Generic drug," a chemically equivalent copy of a brand-name drug with an expired
6 patent;

7 (5) "Labeler," an entity or person that receives prescription drugs from a manufacturer
8 or wholesaler and repackages those drugs for later retail sale and that has a labeler
9 code from the federal Food and Drug Administration under 21 C.F.R. § 270.20
10 (1999);

11 (6) "Pharmacy benefits management," the procurement of prescription drugs at a
12 negotiated rate for dispensation within this state to covered individuals, the
13 administration or management of prescription drug benefits provided by a covered
14 entity for the benefit of covered individuals, or any of the following services provided
15 with regard to the administration of the following pharmacy benefits:

16 (a) Mail service pharmacy;

17 (b) Claims processing, retail network management, and payment of claims to
18 pharmacies for prescription thugs dispensed to covered individuals;

19 (c) Clinical formulary development and management services;

20 (d) Rebate contracting and administration;

21 (e) Certain patient compliance, therapeutic intervention, and generic substitution
22 programs; and

23 (f) Disease management programs involving prescription drug utilization;

24 (7) "Pharmacy benefits manager," an entity that performs pharmacy benefits

1 management. The term includes a person or entity acting for a pharmacy benefits
2 manager in a contractual or employment relationship in the performance of pharmacy
3 benefits management for a covered entity and includes mail service pharmacy. The
4 term does not include a health carrier licensed pursuant to Title 58 when the health
5 carrier or its subsidiary is providing pharmacy benefit management to its own
6 insureds; or a public self-funded pool or a private single employer self-funded plan
7 that provides such benefits or services directly to its beneficiaries;

8 (8) "Proprietary information," information on pricing, costs, revenue, taxes, market
9 share, negotiating strategies, customers, and personnel held by private entities and
10 used for that private entity's business purposes;

11 (9) "Trade secret," information, including a formula, pattern, compilation, program,
12 device, method, technique, or process, that:

13 (a) Derives independent economic value, actual or potential, from not being
14 generally known to, and not being readily ascertainable by proper means by,
15 other persons who can obtain economic value from its disclosure or use; and

16 (b) Is the subject of efforts that are reasonable under the circumstances to
17 maintain its secrecy.

18 Section 2. No person or entity may perform or act as a pharmacy benefit manager in this
19 state without a valid license to operate as a third party administrator pursuant to chapter 58-29D.

20 Section 3. Each pharmacy benefits manager shall perform its duties exercising good faith
21 and fair dealing toward the covered entity.

22 Section 4. A covered entity may request that any pharmacy benefit manager with which it
23 has a pharmacy benefit management services contract disclose to the covered entity, the amount
24 of all rebate revenues and the nature, type, and amounts of all other revenues that the pharmacy

1 benefit manager receives from each pharmaceutical manufacturer or labeler with whom the
2 pharmacy benefit manager has a contract. The pharmacy benefit manager shall disclose in
3 writing:

4 (1) The aggregate amount, and for a list of drugs to be specified in the contract, the
5 specific amount, of all rebates and other retrospective utilization discounts received
6 by the pharmacy benefit manager directly or indirectly, from each pharmaceutical
7 manufacturer or labeler that are earned in connection with the dispensing of
8 prescription drugs to covered individuals of the health benefit plans issued by the
9 covered entity or for which the covered entity is the designated administrator;

10 (2) The nature, type, and amount of all other revenue received by the pharmacy benefit
11 manager directly or indirectly from each pharmaceutical manufacturer or labeler for
12 any other products or services provided to the pharmaceutical manufacturer or labeler
13 by the pharmacy benefit manager with respect to programs that the covered entity
14 offers or provides to its enrollees; and

15 (3) Any prescription drug utilization information requested by the covered entity relating
16 to covered individuals.

17 A pharmacy benefit manager shall provide such information requested by the covered entity
18 for such disclosure within thirty days of receipt of the request. If requested, the information shall
19 be provided no less than once each year. The contract entered into between the pharmacy benefit
20 manager and the covered entity shall set forth any fees to be charged for drug utilization reports
21 requested by the covered entity.

22 Section 5. A pharmacy benefit manager, unless authorized pursuant to the terms of its
23 contract with a covered entity, may not contact any covered individual without express written
24 permission of the covered entity.

1 Section 6. Except for utilization information, a covered entity shall maintain any information
2 disclosed in response to a request pursuant to section 4 of this Act as confidential and
3 proprietary information, and may not use such information for any other purpose or disclose
4 such information to any other person except as provided in this Act or in the pharmacy benefit
5 management services contract between the parties. Any covered entity who discloses
6 information in violation of this section is subject to an action for injunctive relief and is liable
7 for any damages which are the direct and proximate result of such disclosure. Nothing in this
8 section prohibits a covered entity from disclosing confidential or proprietary information to the
9 director, upon request. Any such information obtained by the director is confidential and
10 privileged and is not open to public inspection or disclosure.

11 Section 7. The covered entity may have the pharmacy benefit manager's books and records
12 related to the rebates or other information described in subdivisions (1), (2), and (3) of section
13 4 of this Act, to the extent the information relates directly or indirectly to such covered entity's
14 contract, audited in accordance with the terms of the pharmacy benefit management services
15 contract between the parties. However, if the parties have not expressly provided for audit rights
16 and the pharmacy benefit manger has advised the covered entity that other reasonable options
17 are available and subject to negotiation, the covered entity may have such books and records
18 audited as follows:

- 19 (1) Such audits may be conducted no more frequently than once in each twelve-month
20 period upon not less than thirty business day's written notice to the pharmacy benefit
21 manager;
- 22 (2) The covered entity may select an independent firm to conduct such audit, and such
23 independent firm shall sign a confidentiality agreement with the covered entity and
24 the pharmacy benefit manager ensuring that all information obtained during such

1 audit will be treated as confidential. The firm may not use, disclose, or otherwise
2 reveal any such information in any manner or form to any person or entity except as
3 otherwise permitted under the confidentiality agreement. The covered entity shall
4 treat all information obtained as a result of the audit as confidential, and may not use
5 or disclose such information except as may be otherwise permitted under the terms
6 of the contract between the covered entity and the pharmacy benefit manager or if
7 ordered by a court of competent jurisdiction for good cause shown;

8 (3) Any such audit shall be conducted at the pharmacy benefit manager's office where
9 such records are located, during normal business hours, without undue interference
10 with the pharmacy benefit manager's business activities, and in accordance with
11 reasonable audit procedures.

12 Section 8. With regard to the dispensation of a substitute prescription drug for a prescribed
13 drug to a covered individual, when the pharmacy benefit manager requests a substitution, the
14 following provisions apply:

15 (1) The pharmacy benefits manager may request the substitution of a lower-priced
16 generic and therapeutically equivalent drug for a higher-priced prescribed drug;

17 (2) With regard to substitutions in which the substitute drug's net costs is more for the
18 covered individual or the covered entity than the prescribed drug, the substitution
19 must be made only for medical reasons that benefit the covered individual, If a
20 substitution is being requested pursuant to this subdivision, the pharmacy benefits
21 manager shall obtain the approval of the prescribing health professional.

22 Section 9. The Division of Insurance shall promulgate rules, pursuant to chapter 1-26, to
23 carry out the issuance of the license required by section 2 of this Act and the enforcement
24 provisions of this Act. The rules may include the following:

- 1 (1) Definition of terms;
- 2 (2) Use of prescribed forms;
- 3 (3) Reporting requirements;
- 4 (4) Enforcement procedures; and
- 5 (5) Protection of proprietary information and trade secrets.

6 Section 10. Any covered entity may bring a civil action to enforce the provisions of this Act
7 or to seek civil damages for the violation of its provisions.

8 Section 11. The provisions of this Act apply only to pharmacy benefit management services
9 contracts entered into or renewed after June 30, 2004.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

178J0045

SENATE JUDICIARY COMMITTEE ENGROSSED NO.

SB 2 - 01/21/2004

Introduced by: Senators Schoenbeck, Abdallah, Kelly, Napoli, and Reedy and Representatives Sebert, Burg, Engels, Garnos, Hennies, Murschel, O'Brien, Rhoden, Rounds, Schafer, and Valandra at the request of the Interim Committee on Department of Corrections Agency Review

1 FOR AN ACT ENTITLED, An Act to revise the style and form of certain provisions relating
2 to the Department of Corrections and to correct certain errors and omissions.

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

4 Section 1. That § 24-1-1 be amended to read as follows:

5 24-1-1. The state penitentiary ~~shall be~~ is the general prison of this state for the punishment
6 and reformation of offenders ~~wherein to which~~ such offenders as may be committed ~~thereto~~,
7 according to law, by any court of this state, shall be confined, employed, and governed in the
8 manner ~~hereinafter~~ provided by law.

9 Section 2. That § 24-1-12 be amended to read as follows:

10 24-1-12. All process to be served within the precincts of the state penitentiary, either upon
11 ~~convicts~~ inmates or upon persons or officers employed within the precincts thereof, except upon
12 the warden, shall be served and returned by the warden, ~~or his~~ personally or by a designee. All
13 officers and employees of the penitentiary ~~shall be~~ are exempt from serving upon juries in any
14 state court.



1 Section 3. That § 24-1-16 be amended to read as follows:

2 24-1-16. The warden ~~shall have power to~~ may make all purchases for the penitentiary on
3 such conditions and in such manner as in ~~his~~ the warden's opinion will best promote the interest
4 of the state, ~~except as may be otherwise specifically provided by law.~~

5 Section 4. That § 24-2-9 be amended to read as follows:

6 24-2-9. Any inmate violating the rules or institutional policies ~~may be~~ is subject to any one
7 or more of the following disciplinary sanctions:

- 8 (1) Withholding of statutory time for good conduct;
- 9 (2) Punitive confinement;
- 10 (3) Imposition of fines;
- 11 (4) Restriction of privileges;
- 12 (5) Loss of work or school privileges;
- 13 (6) Additional labor without compensation;
- 14 (7) Referral to various programs;
- 15 (8) Transfer to a more secure housing unit;
- 16 (9) Change in classification status.

17 ~~There may be no~~ No corporal punishment may be inflicted upon inmates in the penitentiary.

18 Section 5. That § 24-2-10 be amended to read as follows:

19 24-2-10. Any person sentenced to imprisonment in the state penitentiary is under the
20 protection of the law, and any injury to ~~him~~ such person not authorized by law is punishable in
21 the same manner as if ~~he~~ the person were not convicted or sentenced.

22 Section 6. That § 24-2-12 be amended to read as follows:

23 24-2-12. ~~Every~~ Any inmate against whom the disciplinary sanction of punitive confinement
24 has been given for violating any of the rules or policies of the Department of Corrections, unless

1 otherwise determined by the secretary of corrections, shall be housed in ~~the adjustment center~~
 2 a segregation section of the penitentiary for a such period ~~deemed~~ as may be necessary for the
 3 best interests of discipline, justice, rehabilitation, and the protection of ~~self~~ the inmate and
 4 others. The disciplinary board, established by rules promulgated by the Department of
 5 Corrections, may take away time granted for good conduct pursuant to § 24-5-1 for violating
 6 any of the rules or policies of the Department of Corrections, following a hearing and subject
 7 to the approval of the warden.

8 Section 7. That § 24-2-14 be amended to read as follows:

9 24-2-14. No alcoholic ~~beverages~~, beverage, marijuana, or weapon, as defined in subdivision
 10 22-1-2(10), may be possessed by any inmate of the state penitentiary. No prescription or
 11 nonprescription ~~drugs~~ drugs, controlled ~~substances~~ substance as defined by chapter 34-20B,
 12 ~~marijuana, weapons as defined in subdivision 22-1-2(10)~~; or any article of indulgence may be
 13 possessed by any inmate of the state penitentiary except by order of a physician, physician
 14 assistant, or nurse practitioner, as defined in chapters 36-4, 36-4A, and 36-9A, respectively,
 15 which order shall be in writing and for a definite period. ~~Any~~ Any violation of this section
 16 constitutes a felony pursuant to the following schedule:

- 17 (1) Possession of any alcoholic ~~beverages~~ beverage or marijuana is a Class 6 felony;
- 18 (2) Possession of any prescription or nonprescription ~~drugs~~ drug or controlled ~~substances~~
 19 substance is a Class 4 felony;
- 20 (3) Possession of a weapon as defined in subdivision 22-1-2(10) is a Class 2 felony.

21 Section 8. That § 24-2-15 be amended to read as follows:

22 24-2-15. ~~Any~~ If any inmate, convicted under the laws of this state, ~~who, by~~ has demonstrated
 23 continued exceptional good behavior, or is in failing health, or for some other good and
 24 sufficient reason in the interest of justice ~~may be compensated therefor in the discretion of~~, the

1 Governor, upon the recommendation of the secretary of corrections ~~by diminishing his period~~
2 ~~of confinement,~~ may diminish the inmate's period of confinement.

3 Section 9. That § 24-2-17 be amended to read as follows:

4 24-2-17. The warden of the penitentiary shall keep a true record of the conduct of each
5 inmate, ~~specifying therein~~ and shall specify each infraction of the rules of discipline. Each
6 inmate shall be notified of every entry on ~~his~~ the inmate's record of each such infraction of the
7 rules of discipline and shall have thirty days to challenge the validity of the entry or the
8 disciplinary sanction imposed by notifying the warden ~~thereof to that effect.~~ After investigation,
9 the warden may remove the entry or modify the imposed disciplinary sanction. Such record shall
10 be used whenever the question of any inmate's eligibility for parole or discharge ~~shall arise~~
11 ~~under and by virtue of~~ arises pursuant to § 24-5-1.

12 Section 10. That § 24-2-18 be amended to read as follows:

13 24-2-18. The warden may, at any time prior to an inmate's final discharge, consider
14 recommendations of the disciplinary committee pertaining to the withholding of statutory time
15 granted for good conduct and may recommend to the secretary of corrections that the reduction
16 of time for good conduct ~~under and by virtue of~~ pursuant to § 24-5-1 be withheld in full or in
17 part. The warden may also, at any time prior to the inmate's final discharge, recommend to the
18 secretary of corrections that the reduction of time for good conduct ~~under~~ pursuant to § 24-5-1
19 be withheld in full or in part for conduct evincing an intent to reoffend or commit further
20 offenses when discharged or for any person convicted of a sex crime within the meaning of
21 § 22-22-30 who fails to fully cooperate with all treatment offered.

22 The secretary shall, after hearing, fix the amount of time earned by good conduct to be
23 withheld. ~~The, which~~ decision of the secretary is final.

24 Section 11. That § 24-2-20 be amended to read as follows:

1 24-2-20. Notwithstanding the provisions of § 24-1-26, ~~the records and any other facts that~~
2 ~~may have come to the knowledge of the warden and the warden's opinion,~~ when requested,
3 regarding the fitness of any inmate, sentenced as an adult, for a modification of sentence, parole,
4 pardon, or early release ~~shall be furnished only,~~ the warden shall furnish only to the sentencing
5 court, the secretary of corrections, the Board of Pardons and Parole, or the Governor,
6 respectively, any requested record, fact, or opinion in the warden's possession or knowledge.
7 The Department of Corrections may release the following information on any inmate or parolee
8 sentenced as an adult for purposes of community and victim notification pursuant to
9 subdivisions 23A-28C-1(10) and (12), §§ 23A-28C-5, 24-15-8.1, 24-15-8.2, and 24-15A-22,
10 and to other governmental entities as defined in § 24-2-20.1:

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

- 1 (14) County of conviction;
- 2 (15) Plea;
- 3 (16) Citizenship status; and
- 4 (17) Birth town, state, and country.

5 Section 12. That § 24-2-20.1 be amended to read as follows:

6 24-2-20.1. As used in § 24-2-20, the term, governmental entities, means any department,
7 division, or other public agency of ~~a municipality~~ any municipal, county, state, or ~~nation~~
8 national government.

9 Section 13. That § 24-2-22 be amended to read as follows:

10 24-2-22. Any employee or other person who delivers or procures to be delivered, or ~~shall~~
11 ~~have in his possession~~ possesses with the intention to deliver, to any inmate in the state
12 penitentiary, or deposits or conceals in or around any facility or place used to house inmates, or
13 in any mode of transport entering upon the grounds of any facility or place and its ancillary
14 facilities used to house inmates, any article ~~or thing whatever contrary~~ which is unlawful for an
15 inmate to possess pursuant to state law or the rules of the Department of Corrections with the
16 intent that any inmate ~~shall~~ obtain or receive ~~the same~~ such article, is guilty of a Class 6 felony.

17 Section 14. That § 24-2-25 be amended to read as follows:

18 24-2-25. The warden of the state penitentiary may extend the limits of the place of
19 confinement of an inmate, ~~who he~~ if the warden has reasonable cause to believe that the inmate
20 will honor ~~his trust by authorizing him under~~ the warden's prescribed conditions to visit or be
21 housed in specifically designated places within the state.

22 Section 15. That § 24-2-26 be amended to read as follows:

23 24-2-26. ~~Any article or item which is not specifically authorized by law or by the~~ The
24 ~~warden and in the personal possession or effects of any inmate shall be confiscated and disposed~~

1 may confiscate and dispose of, in the manner as in the opinion of the secretary of corrections
2 will best promote the interest of the state, any article in the personal possession of any inmate
3 which is unlawful for an inmate to possess pursuant to state law or the rules of the Department
4 of Corrections. ~~Unauthorized~~ Any unauthorized money which ~~has been~~ is confiscated shall be
5 deposited in the state general fund.

6 Section 16. That § 24-2-27 be amended to read as follows:

7 24-2-27. The Department of Corrections may establish and maintain facilities, programs,
8 or services outside the precincts of the penitentiary proper and contract with other governmental
9 entities for the care and maintenance of inmates committed to the penitentiary. However, the
10 court may not order that an inmate be housed in any particular facility nor may the court order
11 that an inmate be placed in a specific program or receive specific services. No inmate has any
12 implied right or expectation to be housed in any particular facility, participate in any specific
13 program, or receive any specific service, and ~~all inmates are~~ each inmate is subject to transfer
14 from any one facility, program, or service at the discretion of the warden of the penitentiary. ~~An~~
15 Any escape from the penitentiary or from a facility, program, or service maintained outside the
16 penitentiary is ~~considered~~ a violation of § 22-11A-2. Venue for a prosecution for an escape from
17 any facility ~~shall be in~~ is the county where the acts constituting the escape take place, ~~unless~~
18 ~~otherwise provided by law.~~

19 Section 17. That § 24-2-28 be amended to read as follows:

20 24-2-28. ~~An~~ Each inmate under the jurisdiction of the Department of Corrections is liable
21 for the cost of the inmate's confinement which includes: room and board charges; medical,
22 dental, optometric, and psychiatric services charges; vocational education training; and
23 alcoholism treatment charges.

24 ~~Consideration may be given the following factors:~~ However, if the secretary of corrections

1 determines after considering the net income, net worth, number of dependents, and any existing
2 obligations. ~~If the secretary of corrections determines~~ of the inmate, that the inmate is unable
3 to pay, the secretary may waive all or part of the payment for the costs of the inmate's
4 confinement.

5 Section 18. That § 24-2-29 be amended to read as follows:

6 24-2-29. ~~An~~ Each inmate is liable for ~~court-ordered~~ court-ordered fines, costs, fees,
7 sanctions, and restitution and any obligation incurred while under the jurisdiction of the
8 Department of Corrections including those provided for in §§ 24-2-28, 24-7-3, 24-8-9,
9 24-11A-19, 24-15-11, 24-15A-24, and 23A-35B-4 and any other charge owed to the state.
10 Disbursement shall be made from an inmate's institutional account to defray the inmate's
11 obligation, regardless of the source of the inmate's funds, including moneys in the inmate's
12 institutional account pursuant to § 24-2-5 and wages earned by the inmate pursuant to §§ 24-4-9,
13 24-7-3(3), 24-7-6, 24-8-8, and 24-11A-20.

14 Section 19. That § 24-2-30 be amended to read as follows:

15 24-2-30. It is ~~hereby declared to be a~~ the policy of the State of South Dakota that each
16 inmate of a Department of Corrections facility shall be employed or work in some productive
17 capacity ~~provided~~ if there is a suitable work situation. ~~An~~ Any inmate may be required to work
18 without compensation as a condition of confinement.

19 Section 20. That § 24-4-8 be amended to read as follows:

20 24-4-8. Any person who has ~~been given~~ custody of an inmate pursuant to § 24-4-7 shall
21 immediately report the unauthorized absence of any inmate and shall promptly return any inmate
22 to the custody of the warden if ordered to do so.

23 Section 21. That § 24-5-1 be amended to read as follows:

24 24-5-1. Every inmate sentenced for any term less than life, or who has had an indeterminate

1 sentence set at a term of years, or who has had a life sentence commuted to a term of years, and
2 subject to the provisions of §§ 24-2-17 and 24-2-18, is entitled to a deduction of four months
3 from his or her sentence for each year and pro rata for any part of a year for the first year to the
4 tenth, and six months for the tenth year and for each year thereafter until the expiration of the
5 period of the sentence as pronounced by the court, for good conduct.

6 Section 22. That § 24-5-2 be amended to read as follows:

7 24-5-2. Whenever any inmate has been discharged under the provisions of § 24-5-1, ~~he~~ the
8 inmate shall at the time of ~~his~~ discharge be considered as restored to the full rights of
9 citizenship. At the time of the discharge of any inmate under the provisions of this chapter, ~~he~~
10 the inmate shall receive from the secretary of corrections a certificate stating that ~~he~~ the inmate
11 has been restored to the full rights of a citizen. If an inmate is on parole at the time ~~he~~ the inmate
12 becomes eligible for discharge, the secretary of corrections shall issue a like certificate, ~~which~~
13 ~~shall be due notice that such~~ stating that the inmate has been restored to the full rights of a
14 citizen.

15 The secretary of corrections shall mail a copy of the certificate to the clerk of court for the
16 county from which the inmate was sentenced.

17 Section 23. That § 24-5-3 be amended to read as follows:

18 24-5-3. Every inmate, when discharged from the penitentiary, whether by parole, suspended
19 sentence, or final discharge, shall be provided with suitable clothing, a sum of money to be
20 determined by the secretary of corrections, and transportation to the place where the inmate
21 received sentence. Any inmate who has received such money and transportation, and who is
22 returned to the penitentiary upon revocation of ~~his~~ parole or suspended sentence, is not eligible
23 to receive such payment or transportation upon final discharge.

24 Section 24. That § 24-5-7 be amended to read as follows:

1 24-5-7. Upon recommendation of the supervising agent, the Board of Pardons and Paroles
2 may grant an early final discharge from supervision for a parolee or person serving a suspended
3 sentence under supervision of the board if the board is satisfied that an early final discharge
4 would be in the best interests of society and the inmate. At the time of early final discharge from
5 supervision, the secretary of corrections shall issue a certificate of discharge pursuant to
6 § 24-5-2. ~~An~~ No inmate is ~~not~~ entitled to an early final discharge. Neither this section nor its
7 application may be the basis for establishing a constitutionally protected liberty, property, or due
8 process interest in any inmate.

9 Section 25. That § 24-6A-1 be amended to read as follows:

10 24-6A-1. The ~~Springfield Correctional Facility~~ Mike Durfee State Prison, located at
11 Springfield in Bon Homme County, is under the control of the Department of Corrections. The
12 secretary of corrections shall appoint and set a salary for the warden of the facility. The warden
13 of the ~~Springfield Correctional Facility~~ Mike Durfee State Prison, under the supervision of the
14 secretary, shall have charge and custody of the facility, with all lands, buildings, furniture, tools,
15 equipment, implements, stock, and provisions, and all other property pertaining thereto or within
16 the precincts thereof. All officers and employees of the ~~Springfield Correctional Facility~~ Mike
17 Durfee State Prison shall perform duties as may be required of them by the warden of the
18 facility.

19 Section 26. That § 24-6A-2 be repealed.

20 ~~24-6A-2. The Department of Corrections, established pursuant to chapter 1-15, as previously~~
21 ~~enacted, may provide for architectural services, engineering services, or other planning for the~~
22 ~~construction of a housing unit for female inmates at the Springfield Correctional Facility.~~

23 Section 27. That § 24-6A-3 be repealed.

24 ~~24-6A-3. The Department of Corrections may accept and expend for the purposes of~~

1 ~~§§ 24-6A-2 to 24-6A-4, inclusive, any funds which it may obtain from federal sources, gifts,~~
 2 ~~contributions, or any other source, provided such acceptance and expenditure is approved in~~
 3 ~~accordance with § 4-8B-10.~~

4 Section 28. That § 24-6A-4 be repealed.

5 ~~— 24-6A-4. The design and construction of this project shall be under the general charge and~~
 6 ~~supervision of the Bureau of Administration as provided in § 5-14-2. The funds obtained in~~
 7 ~~§ 24-6A-3 shall be paid on warrants drawn by the state auditor on vouchers approved by the~~
 8 ~~state engineer and the secretary of the Department of Corrections.~~

9 Section 29. That § 24-6A-5 be repealed.

10 ~~— 24-6A-5. Pursuant to the provisions of § 5-12-46, the Legislature hereby authorizes the sale~~
 11 ~~and lease-back of the Springfield Correctional Facility by the South Dakota Building Authority~~
 12 ~~as described in §§ 5-12-42 and 5-12-43.~~

13 Section 30. That § 24-7-1 be amended to read as follows:

14 24-7-1. The South Dakota State Prison Industries ~~shall constitute~~ constitutes the operating
 15 organization for all of the industries now established at the state penitentiary, including the
 16 license plate plant, furniture shop, bookbindery, and sign shop, ~~and farm operations~~. The same
 17 prison industries shall also embrace ~~all such~~ any new industries ~~as may be~~ industry that is
 18 established by the Department of Corrections at the state penitentiary or any other facilities
 19 facility for the employment of inmate labor.

20 Section 31. That § 24-7-18 be amended to read as follows:

21 24-7-18. In the collection of past-due accounts of the prison industries, the attorney general
 22 may institute probate proceedings as a creditor of any deceased person or institute other court
 23 actions to collect ~~same~~ the past-due account, enter into any stipulation or agreement to
 24 compromise or settle ~~same~~ the past-due account, whether paid in full or not, if, in ~~his~~ the

1 attorney general's judgment, it is for the best interests of the state to do so, and make any such
2 settlement or compromise and execute any release, partial release, discharge, satisfaction, or
3 partial satisfaction of any lien if necessary to the settlement of the account. However, before
4 making such settlement, ~~he~~ the attorney general shall secure the approval of the secretary of
5 corrections to ~~same~~ the settlement.

6 Section 32. That § 24-7-19 be amended to read as follows:

7 24-7-19. The attorney general may employ such special assistant attorney or collector as ~~he~~
8 ~~may deem~~ may be necessary to collect any delinquent accounts of the prison industries and to
9 pay ~~him~~ such special assistant attorney or collector on a salary, fee, or contingent fee basis as
10 ~~he the attorney general~~ may deem best ~~and determine; all.~~ All of such expense, including filing
11 fees, sheriff's fees, court costs, traveling, expenses, and other necessary expenses of collection
12 ~~to~~ shall be paid out of the sums collected, or out of the prison industries revolving fund on
13 itemized claims approved by the attorney general and the secretary of corrections; but the
14 amount expended for such purposes from the prison industries funds may not exceed the sum
15 of five hundred dollars.

16 Section 33. That § 24-7-32 be amended to read as follows:

17 24-7-32. All state departments shall buy license plates and licensing decals from the prison
18 industries ~~as it may be~~ if the prison industries are able to furnish such license plates and
19 licensing decals. The prison industries shall furnish ~~the same~~ such license plates and licensing
20 decals at the actual cost of production, plus fifteen percent.

21 Section 34. That § 24-7-33 be amended to read as follows:

22 24-7-33. ~~The state departments~~ Any state department contracting for any of the products
23 ~~herein~~ provided for by prison industries shall pay for such goods as provided by law, ~~and all,~~
24 All money received for the manufacturing of products ~~as herein provided~~ shall be deposited to

1 the credit of the revolving fund provided for in this chapter.

2 Section 35. That § 24-8-1 be amended to read as follows:

3 24-8-1. The Department of Corrections may conditionally release selected inmates and may
4 extend the limits of the place of confinement of such inmates of the state penitentiary. If the
5 warden determines that the character and attitude of an inmate reasonably indicate that ~~he~~ the
6 inmate may be so trusted, the warden may release and provide for continued supervision of such
7 an inmate to work at paid employment, to seek employment, or to participate in vocational
8 training or other educational programs in the community after such employment or program has
9 been investigated and approved pursuant to rules promulgated by the Department of
10 Corrections. The warden ~~at his discretion~~ may, with or without cause, terminate or suspend any
11 such release.

12 Section 36. That § 24-8-3 be amended to read as follows:

13 24-8-3. ~~An~~ Any inmate released pursuant to § 24-8-1 shall be confined in the institution
14 from which released or some other suitable place of confinement approved by the warden. Such
15 confinement shall be for such periods of time that such inmate is not actually working at his or
16 her employed job, seeking employment, or ~~engaged~~ engaging in a vocational training or other
17 educational program.

18 Section 37. That § 24-8-6 be amended to read as follows:

19 24-8-6. The failure of an inmate to report to or return from planned employment, the seeking
20 of employment, or vocational training ~~shall be considered as an~~ constitutes escape, and such
21 inmate shall be ~~tried~~ charged therefor.

22 Section 38. That § 24-8-9 be amended to read as follows:

23 24-8-9. The warden shall place all earnings in the inmate's account and make disbursements
24 therefrom in the priority set forth below:

- 1 (1) The board and room charges of the inmate;
- 2 (2) Necessary travel expenses and other incidental expenses of the inmate related to ~~his~~
3 the inmate's release program;
- 4 (3) ~~Assist in the support~~ Support of the inmate's legal dependents;
- 5 (4) Payments on fines and restitution;
- 6 (5) ~~The inmate shall have the discretion of directing payments to be made upon proper~~
7 proof Payments of personal debts and obligations upon proper proof and at the
8 discretion of the inmate;
- 9 (6) The balance, if any, to be retained in the inmate's account and paid to the inmate
10 upon parole or discharge.

11 Section 39. That § 24-8-9.1 be amended to read as follows:

12 24-8-9.1. No ~~prisoner~~ inmate engaged in work-release activities may drive or operate a
13 motor vehicle unless ~~he~~ the inmate has established to the satisfaction of the sheriff or warden
14 that ~~he~~ the inmate is in compliance with § 32-35-113.

15 Section 40. That § 24-8-10 be amended to read as follows:

16 24-8-10. The earnings of inmates under this chapter ~~shall~~ are not ~~be~~ subject to garnishment,
17 attachment, or execution either in the hands of the employer or an agent authorized to hold or
18 transmit such moneys.

19 Section 41. That § 24-13-4 be amended to read as follows:

20 24-13-4. At the first meeting in each year, the board shall select one of its members as
21 ~~chairman~~ chair. The board shall meet at the times and places prescribed by its rules and
22 whenever called together by the ~~chairman~~ chair.

23 Section 42. That § 24-13-4.2 be amended to read as follows:

24 24-13-4.2. The ~~chairman~~ chair of the board may designate individual parole board members

1 as hearing officers who may conduct hearings, hear applications, take testimony, and make
2 recommendations to the board regarding the granting, denial, revocation, rescission, or an
3 administrative continuance of a parole. The recommendation shall be in writing and reviewed
4 by the board or a panel of the board who may adopt, modify, or reject the recommendations.

5 Section 43. That § 24-13-4.3 be amended to read as follows:

6 24-13-4.3. The ~~chairman~~ chair of the board may designate panels of two or more board
7 members to conduct hearings, hear applications, take testimony, and take final action regarding
8 the granting, denial, revocation, rescission, or an administrative continuance of a parole.

9 Section 44. That § 24-13-4.4 be amended to read as follows:

10 24-13-4.4. The decisions made by a panel of two or more board members are not appealable
11 to the Board of Pardons and Paroles. Panels as designated by the ~~chairman~~ chair shall exercise
12 the same authority and assume the same responsibilities as the full Board of Pardons and Paroles
13 in those actions that panels are authorized to take pursuant to § 24-13-4.3.

14 Section 45. That § 24-13-4.6 be amended to read as follows:

15 24-13-4.6. No recommendation for the commutation of a sentence or for a pardon ~~other than~~
16 including an exceptional pardon authorized by § 24-14-8, may be made by less than the majority
17 vote of all members of the Board of Pardons and Paroles.

18 Section 46. That § 24-13-7 be amended to read as follows:

19 24-13-7. Pursuant to chapter 1-26, the Board of Pardons and Paroles may promulgate
20 procedural rules for the effective enforcement of chapters 24-13 to 24-15, inclusive, and for the
21 exercise of powers and duties conferred upon it. Additionally, the Board of Pardons and Paroles
22 may utilize the following standards in granting or denying paroles or in assisting inmates in an
23 assessment of their rehabilitation needs:

24 (1) The inmate's personal and family history;

- 1 (2) The inmate's attitude, character, capabilities, and habits;
- 2 (3) The nature and circumstances of the inmate's offense;
- 3 (4) The number, nature, and circumstances of the inmate's prior offenses;
- 4 (5) The successful completion or revocation of previous probation or parole granted to
- 5 the inmate;
- 6 (6) The inmate's conduct in the institution, including efforts directed towards
- 7 self-improvement;
- 8 (7) The inmate's understanding of his or her own problems and ~~his~~ the willingness to
- 9 work towards overcoming them;
- 10 (8) The inmate's total personality as it reflects on the possibility that ~~he~~ the inmate will
- 11 lead a law-abiding life without harm to society;
- 12 (9) The inmate's family and marital circumstances and the willingness of the family and
- 13 others to help the inmate upon release on parole from the institution;
- 14 (10) The soundness of the parole program and whether it will promote the rehabilitation
- 15 of the inmate;
- 16 (11) The inmate's specific employment and plans for further formal education or training;
- 17 (12) The inmate's plan for additional treatment and rehabilitation while on parole;
- 18 (13) The effect of the inmate's release on the community;
- 19 (14) The effect of the inmate's release on the administration of justice; and
- 20 (15) The effect of the inmate's release on the victims of crimes committed by the inmate.

21 Neither this section or its application may be the basis for establishing a constitutionally
22 protected liberty, property, or due process interest in any prisoner.

23 Section 47. That § 24-14-1 be amended to read as follows:

24 24-14-1. The Governor may, by executive order, delegate to the Board of Pardons and

1 Paroles the authority to hear applications for pardon, commutation, reprieve, or remission of
2 fines and forfeitures, and to make its recommendations to ~~him~~ the Governor.

3 Section 48. That § 24-14-2 be amended to read as follows:

4 24-14-2. The term "clemency" means either a pardon, commutation, reprieve, or remission
5 of a fine or forfeiture.

6 Section 49. That § 24-14-3 be amended to read as follows:

7 24-14-3. The applicant shall, upon notice of hearing from the board for clemency
8 consideration, serve the attorney who prosecuted the person applying for clemency, or ~~his~~ the
9 attorney's successor in office, a notice of the hearing ~~thereon~~, at least fifteen days before it
10 considers the application.

11 Section 50. That § 24-14-5 be amended to read as follows:

12 24-14-5. The Governor may submit an application for clemency to the Board of Pardons and
13 Paroles for its recommendation. The Governor may, by executive order, delegate to the board
14 the authority to consider applications for clemency and make recommendations to ~~him~~ the
15 Governor. The Governor is not bound to follow a any recommendation returned by the board.

16 Section 51. That § 24-15-1 be amended to read as follows:

17 24-15-1. If a defendant is sentenced to the state penitentiary, the Department of Corrections
18 shall develop a file which shall contain a complete history of ~~the defendant~~ that person. The
19 executive director of the Board of Pardons and Paroles shall generate an adequate case history
20 of each inmate of the state penitentiary to enable ~~him~~ the executive director to make
21 recommendations to the Board of Pardons and Paroles. The case history shall be transferred and
22 kept as a permanent record of the Department of Corrections, solely for the proper supervision
23 of the inmate by the Department of Corrections and as a guide to ~~his~~ the inmate's needs. Except
24 for the information authorized for release pursuant to § 24-2-20, ~~such file shall not be inspected~~

1 ~~by anyone~~ no person other than members of the Board of Pardons and Paroles, its executive
2 director, the secretary of corrections ~~and~~, or any person specifically delegated for such access
3 by the secretary of corrections, may inspect such file unless otherwise ordered by a circuit court.

4 Section 52. That § 24-15-1.1 be amended to read as follows:

5 24-15-1.1. Parole is the discretionary conditional release of an inmate from actual
6 penitentiary custody before the expiration of ~~his~~ the inmate's term of imprisonment. The
7 prisoner remains an inmate under the legal custody of the Department of Corrections until the
8 expiration of ~~his~~ the inmate's term of imprisonment. A prisoner is not required to accept a
9 conditional parole. A prisoner is never entitled to parole. However, parole may be granted if in
10 the judgment of the Board of Pardons and Paroles granting a parole would be in the best
11 interests of society and the prisoner.

12 Neither this section or its application may be the basis for establishing a constitutionally
13 protected liberty, property, or due process interest in any prisoner.

14 Section 53. That § 24-15-2 be amended to read as follows:

15 24-15-2. The executive director of the Board of Pardons and Paroles in preparing each case
16 history shall:

- 17 (1) Adopt and implement a procedure by which a report shall be completed to contain
18 the life history of each inmate;
- 19 (2) Receive from the Department of Corrections a copy of the true record of each inmate
20 which specifies each infraction of rules and the disciplinary action taken; and
- 21 (3) Enlist the services of any sheriff, state's attorney, circuit judge, or other officer who
22 may have knowledge concerning each inmate, or circumstances surrounding the
23 commission of the crime for which ~~he~~ the inmate was sentenced, or ~~his~~ the inmate's
24 previous history.

1 Section 54. That § 24-15-3 be amended to read as follows:

2 24-15-3. ~~If~~ Whenever any person becomes an inmate of the penitentiary, the director shall
3 immediately establish in the record the date when the inmate will be eligible for consideration
4 for parole. Such consideration for a parole eligibility date ~~shall be~~ is subject to change upon
5 receipt of information regarding a change in the number of prior felony convictions or any
6 subsequent felony convictions. Any inmate who is aggrieved by the established parole
7 consideration eligibility date may apply for a hearing before the Board of Pardons and Paroles
8 for a final determination of the true and correct parole consideration eligibility date. Between
9 the date a person becomes an inmate of the penitentiary and the date on which such person
10 becomes eligible for consideration for parole, the director shall complete the history of the
11 inmate and shall study the life, habits, previous environment, and nature of the inmate to
12 determine the advisability of recommending ~~him~~ the inmate for parole when ~~he~~ the inmate
13 becomes eligible to be considered. At least ten days before the date of eligibility the director
14 shall submit to the board the findings regarding the inmate.

15 If the victim of the inmate's crime requests in writing to be notified by the Board of Pardons
16 and Parole when the inmate will be eligible for consideration for parole, the director shall send
17 a notice at least ten days before the date of eligibility, of the inmate's parole consideration
18 eligibility by first class mail to the address provided by the victim. The notice shall provide the
19 inmate's parole consideration eligibility date; and the parole hearing date, and ~~it~~ the board shall
20 advise the victim that he or she may be present at the hearing and may state his or her opinion
21 regarding the possible parole of the inmate.

22 Section 55. That § 24-15-4 be amended to read as follows:

23 24-15-4. ~~A person~~ No inmate sentenced to life imprisonment is ~~not~~ eligible for parole by the
24 Board of Pardons and Paroles.

1 Section 56. That § 24-15-5 be amended to read as follows:

2 24-15-5. ~~A person~~ An inmate is eligible for parole, subject to § 24-15-4, after deducting
3 from ~~his~~ the inmate's sentence the statutory time granted for good conduct pursuant to § 24-5-1:

4 (1) If convicted of a felony for the first time, when ~~he~~ the inmate has served one-fourth
5 of the time remaining;

6 (2) If convicted of a felony for the second time, when ~~he~~ the inmate has served
7 three-eighths of the time remaining; or

8 (3) If convicted of a felony three or more times, when ~~he~~ the inmate has served one-half
9 of the time remaining.

10 Section 57. That § 24-15-8.1 be amended to read as follows:

11 24-15-8.1. The victim may request in writing to be notified by the Board of Pardons and
12 Parole when an inmate who was convicted of committing the crime is granted parole, the
13 inmate's parole is revoked, an offender is granted a clemency hearing, or clemency is
14 recommended. The board shall send the notice by first class mail to the address provided by the
15 victim. However, the board is not liable for any damages to the victim if ~~it~~ the board fails to
16 mail the notice.

17 Section 58. That § 24-15-8.2 be amended to read as follows:

18 24-15-8.2. The victim or the sentencing judge may request in writing to be notified by the
19 Department of Corrections if the inmate who was convicted of committing the crime escapes
20 or is released from the penitentiary, or placed on regularly scheduled furlough or work release
21 pursuant to chapter 24-2, 24-4, or 24-5, or is returned from escape or removed from work
22 release. The Department of Corrections may either telephone the victim or the sentencing judge
23 or send the notice by first class mail to the address provided by the victim or the sentencing
24 judge. However, the Department of Corrections is not liable for any damages to the victim or

1 the sentencing judge if ~~it~~ the board fails either to notify the victim or the sentencing judge by
2 telephone or to mail the notice.

3 Section 59. That § 24-15-10 be amended to read as follows:

4 24-15-10. If ~~his~~ an inmate's application for parole is denied, ~~an~~ the inmate may not again
5 present ~~his~~ an application before the board for a period of eight months. A continuance of an
6 application for parole ~~shall~~ is not ~~be considered~~ a denial. An application for clemency may not
7 be heard for one year after the date of the judgment. If an application for clemency is denied,
8 an inmate may not again present an application for clemency for a period of one year.

9 Section 60. That § 24-15-12 be amended to read as follows:

10 24-15-12. When the Board of Pardons and Paroles grants a parole to an inmate, the
11 Department of Corrections shall provide the parolee, if ~~he is~~ not already provided for, with
12 necessary clothing not exceeding a cost of one hundred dollars, with necessary traveling
13 expenses not exceeding fifty dollars, and with transportation to the county of commitment or
14 an equivalent distance.

15 Section 61. That § 24-15-13 be amended to read as follows:

16 24-15-13. ~~Parolees~~ Each parolee shall at all times be considered confined, in the legal
17 custody of the Department of Corrections, and shall remain under conviction for the crime for
18 which ~~they were~~ the parolee was convicted and sentenced.

19 Section 62. That § 24-15-15 be amended to read as follows:

20 24-15-15. The Board of Pardons and Paroles; may, ~~in its~~ the board's discretion, permit a
21 parolee to leave this state and go to any other state, if satisfied that suitable employment or
22 beneficial occupation of the parolee's time has been secured in the other state where ~~he~~ the
23 parolee will be free from criminal influences, and that a parole agency or department of the
24 other state will undertake supervision of the parolee within the other state in conformity with

1 the laws of South Dakota relating to parolees. The parolee ~~shall be~~ is subject to all the laws of
2 South Dakota relating to parolees, in the same manner and to the same extent as if ~~he~~ the parolee
3 had not been permitted to leave this state.

4 Section 63. That § 24-15-16 be amended to read as follows:

5 24-15-16. Nothing in this chapter ~~shall affect~~ affects the authority of the Governor to enter
6 into compacts with other states, through their duly constituted authorities, for reciprocal
7 supervision of persons placed on probation or released on parole and for the reciprocal return
8 of such persons to the contracting states for violation of the terms of their parole or probation.

9 Section 64. That § 24-15-20 be amended to read as follows:

10 24-15-20. The executive director of the Board of Pardons and Paroles may issue an order
11 to show cause why parole should not be revoked whenever ~~he~~ the executive director or the
12 board is satisfied that:

- 13 (1) A parolee is violating or has violated the regulations or restrictions ~~that are~~ placed
14 upon ~~him~~ the parolee by the board;
- 15 (2) A parolee has failed to report ~~himself~~ to his or her assigned parole agent;
- 16 (3) A parolee has failed to answer inquiries made by a parole agent; or
- 17 (4) The purposes or objects of parole are not being served.

18 Section 65. That § 24-15-24 be amended to read as follows:

19 24-15-24. If the Board of Pardons and Paroles is satisfied that any provision of § 24-15-20
20 has been violated, it may revoke the parole and reinstate the terms of the original sentence and
21 conviction or it may modify conditions of parole and restore parole status. In addition, the board
22 ~~is authorized to~~ may order the reduction of time in full or in part for good conduct granted under
23 § 24-5-1. If the board does not find that the provisions of § 24-15-20 have been violated, it the
24 board may restore the parolee to the original or modified terms and conditions of ~~his~~ parole.

1 Section 66. That § 24-15-29 be amended to read as follows:

2 24-15-29. In order to obtain reimbursement pursuant to § 24-15-28, the ~~chairman~~ chair of
3 the board of county commissioners of the county shall present a claim on a voucher to be
4 approved by the secretary of corrections for detention expenses paid by the county, not to exceed
5 ~~forty~~ fifty dollars per day. When the voucher is presented to the state auditor, the state auditor
6 shall examine it and if the claim is just and valid, the state auditor shall issue a warrant for
7 payment to be made from funds appropriated for that purpose, and the state treasurer shall then
8 pay the sum to the treasurer of the county.

9 Section 67. That § 24-15A-9 be amended to read as follows:

10 24-15A-9. The ~~chairman~~ chair of the board may designate individual parole board members
11 as hearing officers who may conduct hearings pursuant to this chapter and chapters 24-13 and
12 24-15, take testimony, and make recommendations to the board regarding the granting, denial,
13 revocation, or rescission of a parole. The recommendation shall be in writing and reviewed by
14 the board or a panel of the board who may adopt, modify, or reject the recommendations.

15 Section 68. That § 24-15A-10 be amended to read as follows:

16 24-15A-10. The ~~chairman~~ chair of the board may designate panels of two or more board
17 members to conduct hearings pursuant to this chapter and chapters 24-13 and 24-15, take
18 testimony, and take final action regarding the granting, denial, revocation, or rescission of a
19 parole.

20 Section 69. That § 24-15A-14 be amended to read as follows:

21 24-15A-14. If a defendant is sentenced to prison, the department shall develop a file which
22 shall contain a complete history of ~~the defendant~~ that person. Except for the information
23 authorized for release pursuant to § 24-2-20, the record shall be a permanent record of the
24 department, solely for the proper supervision of the inmate by the department and as a guide to

1 the inmate's needs. ~~The file may not be inspected by anyone~~ No person other than members of
2 the board, its executive director, the secretary, and any person specifically delegated for such
3 access by the secretary, may inspect the file unless otherwise ordered by a circuit court.

4 Section 70. That § 24-15A-28 be amended to read as follows:

5 24-15A-28. If the board is satisfied that any provision of § 24-15A-27 has been violated, it
6 may revoke the parole and reinstate the terms of the original sentence and conviction or it may
7 modify conditions of parole and restore parole status. In addition, the board may order the denial
8 of credit for time served on parole. If the board does not find that the provisions of § 24-15A-27
9 have been violated, it the board may restore the parolee to the original or modified terms and
10 conditions of the parolee's parole.

11 Section 71. That § 24-15A-32 be amended to read as follows:

12 24-15A-32. Each inmate sentenced to a penitentiary term, except those under a sentence of
13 life or death, or an indeterminate sentence which is not yet set to a term of years by the board,
14 shall have an initial parole date set by the department. This date ~~will~~ shall be calculated by
15 applying the percentage indicated in the following grid to the full term of the inmate's sentence
16 pursuant to § 22-6-1. The following crimes or an attempt to commit, or a conspiracy to commit,
17 any of the following crimes shall be considered a violent crime for purposes of setting an initial
18 parole date: murder, manslaughter, rape, aggravated assault, riot, robbery, burglary in the first
19 or second degree, arson, kidnapping, felony sexual contact as defined in §§ 22-22-7 and
20 22-22-19.1, child abuse, felony sexual contact as defined in § 22-22-7.2, felony stalking as
21 defined in §§ 22-19A-2 and 22-19A-3, photographing a child in an obscene act, felony assault
22 as defined in § 22-18-26, felony simple assault as defined in § 22-18-1, commission of a felony
23 while armed as defined in §§ 22-14-12 and 22-14-13.1, discharging a firearm at an occupied
24 structure or motor vehicle as defined in § 22-14-20, discharging a firearm from a moving

1 vehicle as defined in § 22-14-21, and criminal pedophilia as defined in § 22-22-30.1:

2 Felony Convictions

| 3 Felony Class | First | Second | Third |
|----------------|-------|--------|-------|
| 4 Nonviolent | | | |
| 5 Class 6 | .25 | .30 | .40 |
| 6 Class 5 | .25 | .35 | .40 |
| 7 Class 4 | .25 | .35 | .40 |
| 8 Class 3 | .30 | .40 | .50 |
| 9 Class 2 | .30 | .40 | .50 |
| 10 Class 1 | .35 | .40 | .50 |
| 11 Violent | | | |
| 12 Class 6 | .35 | .45 | .55 |
| 13 Class 5 | .40 | .50 | .60 |
| 14 Class 4 | .40 | .50 | .65 |
| 15 Class 3 | .50 | .60 | .70 |
| 16 Class 2 | .50 | .65 | .75 |
| 17 Class 1 | .50 | .65 | .75 |
| 18 Class B | 1.0 | 1.0 | 1.0 |
| 19 Class A | 1.0 | 1.0 | 1.0 |

20 Each inmate shall serve at least sixty days prior to parole release. ~~Inmates with life sentences~~
 21 ~~are not~~ No inmate with a life sentence is eligible for parole. An initial parole date through the
 22 application of this grid may be applied to a life sentence only after the sentence is commuted
 23 to a term of years. A Class A or B felony commuted to a number of years shall be applied to the
 24 Class 1 violent column of the grid.

25 Section 72. That § 26-11A-1.1 be repealed.

26 ~~—26-11A-1.1. The Department of Corrections may establish and operate a program in Custer~~
 27 ~~County, for the rehabilitation of selected adjudicated female juveniles. The program is named~~

1 ~~the Lamont Youth Development Center.~~

2 Section 73. That § 26-11A-1.3 be repealed.

3 ~~—26-11A-1.3. The Department of Corrections may establish and operate two youth forestry~~
4 ~~camps in the Black Hills area of the State of South Dakota for the rehabilitation of selected~~
5 ~~youthful offenders.~~

6 Section 74. That § 1-15-1.4 be amended to read as follows:

7 1-15-1.4. The Department of Corrections, under the direction and control of the secretary
8 of corrections, shall govern the ~~state training school, the youth forestry camps, the Lamont~~
9 ~~Youth Development Center~~ juvenile corrections programs established subject to § 26-11A-1,
10 the state penitentiary, and other state correctional facilities, parole services, the Board of
11 Pardons and Paroles, and such other agencies as may be created by statute, executive order, and
12 administrative action and placed under the Department of Corrections.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

400J0352

HOUSE COMMERCE COMMITTEE ENGROSSED NO. **SB 25** - 02/10/2004

Introduced by: The Committee on Commerce at the request of the Department of Revenue
and Regulation

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the cancellation of
2 automobile insurance policies.

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

4 Section 1. That § 58-11-47 be amended to read as follows:

5 58-11-47. The provisions of § 58-11-46 ~~shall~~ do not apply to any policy or coverage ~~which~~
6 that has been in effect less than sixty days at the time notice of cancellation is mailed or
7 delivered by the insurer unless it is a renewal policy. The notice provisions of § 58-11-49 apply
8 to any policy for which notice to cancel is given prior to sixty days from the policy effective
9 date. A policy that has been in effect for less than sixty days may be cancelled for any reason
10 if the notice is given prior to the expiration of sixty days from the policy effective date.



State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

400J0358

HOUSE COMMERCE COMMITTEE ENGROSSED NO.

SB 34 - 02/10/2004

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

Introduced by: The Committee on Commerce at the request of the Department of Revenue and Regulation

1 FOR AN ACT ENTITLED, An Act to require health carriers to offer certain deductible options
2 for certain health benefit plans and to declare an emergency.

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

4 Section 1. That chapter 58-17 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any health carrier with any in force individual health benefit plan issued in accordance with
7 § 58-17-85 prior to August 1, 2003, shall offer, at the option of the insured, additional
8 deductible options of the following:

- 9 (1) One thousand dollars with a four thousand dollar out-of-pocket coinsurance
10 maximum;
- 11 (2) Three thousand dollars with a two thousand dollar out-of-pocket coinsurance
12 maximum;
- 13 (3) Five thousand dollars with no coinsurance; and
- 14 (4) Ten thousand dollars with a twelve thousand two hundred fifty dollar out-of-pocket



1 maximum, including the deductible.

2 Any additional deductible option, with the exception of the five thousand dollar option, shall
3 require that the insured be responsible for a twenty-five percent coinsurance. The premium rates
4 for these benefit plans shall be adjusted based upon the actuarial difference in benefits.

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

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

400J0399

SENATE JUDICIARY COMMITTEE ENGROSSED NO. **SB 56** - 01/26/2004

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

1 FOR AN ACT ENTITLED, An Act to provide that certain minors who have been adjudicated
2 for driving under the influence be defined as children in need of supervision.

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

4 Section 1. That § 32-23-21 be amended to read as follows:

5 32-23-21. It is a Class 2 misdemeanor for any person under the age of twenty-one years to
6 drive, operate, or be in actual physical control of any motor vehicle:

7 (1) If there is physical evidence of 0.02 percent or more by weight of alcohol in the
8 person's blood as shown by chemical analysis of the person's breath, blood, or other
9 bodily substance; or

10 (2) After having consumed marijuana or any controlled drug or substance for as long as
11 physical evidence of the consumption remains present in the person's body.

12 If a person is found guilty of or adjudicated for a violation of this section, the Unified
13 Judicial System shall notify the Department of Public Safety. Upon conviction or adjudication,
14 the court shall suspend that person's driver's license or operating privilege for a period of six
15 months for a first offense or one year for any second or subsequent offense. However, the court



1 may, in its discretion, issue an order permitting the person to operate a motor vehicle during the
2 hours and days of the week set forth in the order for purposes of the person's employment,
3 attendance at school, or attendance at court-ordered counseling programs.

4 Section 2. That § 26-8B-2 be amended to read as follows:

5 26-8B-2. In this chapter and chapter 26-7A, the term, child in need of supervision, means:

- 6 (1) Any child of compulsory school age who is habitually absent from school without
7 legal excuse;
- 8 (2) Any child who has run away from home or is otherwise beyond the control of the
9 child's parent, guardian, or custodian;
- 10 (3) Any child whose behavior or condition endangers the child's own welfare or the
11 welfare of others;
- 12 (4) Any child who has violated any federal, state, or local law or regulation for which
13 there is not a penalty of a criminal nature for an adult, except violations of
14 subdivision 34-46-2(2), or petty offenses; or
- 15 (5) Any child who has violated § 35-9-2 or 32-23-21.

16 Section 3. That § 26-8C-2 be amended to read as follows:

17 26-8C-2. In this chapter and chapter 26-7A, the term, delinquent child, means any child ten
18 years of age or older who, regardless of where the violation occurred, has violated any federal,
19 state, or local law or regulation for which there is a penalty of a criminal nature for an adult,
20 except state or municipal hunting, fishing, boating, park, or traffic laws that are classified as
21 misdemeanors, or petty offenses or any violation of § 35-9-2 or 32-23-21.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

400J0403

SENATE ENGROSSED NO. **SB 57** - 01/26/2004

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

1 FOR AN ACT ENTITLED, An Act to repeal and revise certain provisions relating to mandatory
2 consecutive sentences.

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

4 Section 1. That § 23A-27-36 be repealed.

5 ~~—23A-27-36. If any prisoner commits a crime, upon conviction, the sentence of the prisoner~~
6 ~~shall not commence to run until the expiration of the last sentence of his imprisonment. The~~
7 ~~term "prisoner" as used in this section includes every person in custody, under arrest, or under~~
8 ~~process of law issued from a court of competent jurisdiction.~~

9 Section 2. That § 22-11A-2 be amended to read as follows:

10 22-11A-2. Any prisoner who escapes is guilty of a Class 4 felony. ~~If such prisoner is under~~
11 ~~sentence of imprisonment, his sentence on conviction for an escape shall commence following~~
12 ~~the expiration of the term of the last sentence of his imprisonment.~~

13 Section 3. That § 24-15A-20 be amended to read as follows:

14 24-15A-20. ~~Any~~ If a person is convicted of a felony while an inmate under the custody of
15 the warden of the penitentiary ~~and for which,~~ the sentence ~~is made to~~ shall run consecutively and
16 the person is not eligible for consideration for parole until serving the last of all such



1 consecutive sentences, unless the sentencing court specifically orders otherwise. ~~In such cases~~
2 ~~the~~ The parole date shall be established subject to the provisions of § 24-15A-32. This section
3 does not apply to a person who commits a felony while on parole as defined in § 24-15A-15.

4 Section 4. That § 22-18-27 be amended to read as follows:

5 22-18-27. A penitentiary sentence arising from a conviction pursuant to § 22-18-26 may not
6 commence until the expiration, with no allowance of good time, of the last sentence of
7 imprisonment, ~~pursuant to § 23A-27-36.~~

8 Section 5. That § 22-11A-9 be amended to read as follows:

9 22-11A-9. A penitentiary sentence arising from a conviction under § 22-11A-8 may not
10 commence until the expiration, with no allowance of good time, of the last sentence of
11 imprisonment, ~~pursuant to § 23A-27-36.~~

12 Section 6. That chapter 23A-27 be amended by adding thereto a NEW SECTION to read
13 as follows:

14 If a person is convicted of a crime committed while confined in a county or municipal jail,
15 upon conviction, the sentence does not commence to run until the expiration of the last sentence
16 of imprisonment, unless the sentencing court specifically orders otherwise.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

834J0244

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **SB 72** - 02/10/2004

Introduced by: Senators Kelly, Kooistra, and Reedy and Representatives Kraus, Kroger, and Rave

1 FOR AN ACT ENTITLED, An Act to revise the provisions relating to certain municipal
2 ordinance adoption and to declare an emergency.

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

4 Section 1. That § 22-24-25.1 be amended to read as follows:

5 22-24-25.1. A county or municipality may provide, by ordinance, for a contemporary
6 community standards test to regulate the sale, distribution, and use of obscene material and to
7 regulate obscene live conduct in any commercial establishment or public place within its
8 jurisdiction. ~~The ordinance shall be referred to the electorate at the next regular municipal or~~
9 ~~general election, and upon approval of a majority of those voting in the election, become law.~~

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



State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

619J0575

SENATE JUDICIARY COMMITTEE ENGROSSED NO. **SB 80** - 01/26/2004

Introduced by: Senators Knudson and de Hueck and Representatives Murschel, Cutler,
Deadrick (Thomas), and Williamson

1 FOR AN ACT ENTITLED, An Act to establish a time limit for the filing of a civil action in lieu
2 of a hearing in certain human rights complaints and to permit the disclosure of confidential
3 investigatory materials after a determination in a discrimination proceeding.

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

5 Section 1. That § 20-13-32.2 be amended to read as follows:

6 20-13-32.2. Prior to the issuance of a ~~probable cause~~ determination under § ~~20-13-32~~ § 20-
7 13-1.1, 20-13-28.1, or 20-13-32, information and materials regarding a charge of discrimination
8 obtained by an investigating official are confidential. Notwithstanding §§ 1-27-29 to 1-27-32,
9 inclusive, after the issuance of a ~~probable cause~~ determination and upon receipt of a written
10 request and payment of costs for copying, all investigatory materials may be disclosed to the
11 parties or their counsel of record.

12 Section 2. That § 20-13-35.1 be amended to read as follows:

13 20-13-35.1. No later than twenty days after the issuance of notice requiring the respondent
14 to answer the charge, the charging party or the respondent may elect to have the claims asserted
15 in the charge decided in a civil action, in lieu of a hearing, under the provisions of this section.



1 Any civil action shall be filed within one year of such election. Upon receipt of notice of
2 election, the Division of Human Rights or the Commission of Human Rights has no further
3 jurisdiction over the parties concerning the charge filed. The Division of Human Rights or the
4 Commission of Human Rights shall notify the parties in writing of the election and of the one
5 year limitation period in which to file a civil action. The limitation period in which to file a civil
6 action begins on the date of the notice of election. In a civil action, if the court or jury finds that
7 an unfair or discriminatory practice has occurred, it may award the charging party compensatory
8 damages. The court may grant as relief any injunctive order, including affirmative action, to
9 effectuate the purpose of this chapter. Punitive damages may be awarded under § 21-3-2 for a
10 violation of §§ 20-13-20 to 20-13-21.2, inclusive, 20-13-23.4, 20-13-23.7, or 20-13-26.
11 Attorneys' fees and costs may be awarded to the prevailing party for housing matters.