

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

400J0269

SENATE APPROPRIATIONS COMMITTEE
ENGROSSED NO. **HB 1018** - 02/10/2004

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

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

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

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

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

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

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



1 expenditures authorized by this Act.

2 Section 5. No general fund dollars may be used for maintenance and repair of the facility
3 authorized by this Act, nor may the facility be added to any list of projects receiving funding
4 support from the statewide maintenance and repair fund created in § 5-14-30.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

394J0073

SENATE JUDICIARY COMMITTEE ENGROSSED NO.

SB 1 - 01/21/2004

Introduced by: Senators Schoenbeck, Abdallah, Ham, Kelly, Moore, Napoli, and Reedy and Representatives Sebert, Burg, Engels, Fryslie, 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 provide for a Criminal Code Revision Commission and
2 to declare an emergency.

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

4 Section 1. The Executive Board of the Legislative Research Council shall establish a
5 Criminal Code Revision Commission during the 2004 legislative interim. The commission shall
6 consist of fifteen members. Thirteen members shall be appointed by the Executive Board. Three
7 shall be state senators, no more than two of whom shall be members of the same party. Six shall
8 be state representatives, no more than four of whom shall be members of the same party. Two
9 shall be distinguished current members of the State Bar of South Dakota with extensive
10 experience as a state's attorney or criminal prosecutor. Two shall be distinguished current
11 members of the State Bar of South Dakota with extensive experience as a public defender,
12 court-appointed attorney for indigent defendants, or criminal defense attorney. No more than
13 three of the nonlegislator members of the commission, who are appointed by the Executive
14 Board, shall be from the same party. Before making the appointments of the nonlegislators, the



1 Executive Board shall solicit the advice and recommendations of the State Bar of South Dakota,
2 the South Dakota Trial Lawyers Association, the South Dakota States Attorney's Association,
3 and other organizations that may wish to participate in the appointment process.

4 Section 2. Two members of the commission shall be appointed by the Chief Justice of the
5 Supreme Court. Each shall be either a current or retired circuit court judge or a retired Supreme
6 Court Justice. Each shall have extensive experience in criminal law.

7 Section 3. The Criminal Code Revision Commission shall carefully examine the crimes, the
8 elements of crimes, and the punishment of crimes, with special reference to legislative revisions
9 made since the conclusion of the work of the previous Criminal Code Revision Commission,
10 to ensure that the elements of each crime are clearly and precisely described, that each crime is
11 necessary and appropriate to the maintenance of public order and a well regulated society, and
12 that the punishment prescribed for each crime is just and proportionate. The scope of authority
13 of the commission is not limited to Title 22, but specifically includes all drug offenses and
14 driving under the influence offenses. Moreover, the commission may, at its discretion, examine
15 any offense, whether inherently criminal, procedural, or administrative, if the offense is
16 punishable as a felony or misdemeanor, or by the imposition of any fine or civil penalty.

17 Section 4. The Criminal Code Revision Commission shall embody its recommendations for
18 amendment of the criminal code in draft legislation and submit its recommendations to the
19 Executive Board no later than the Executive Board's final interim meeting.

20 Section 5. Whereas, this Act is necessary for the support of the state government and its
21 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in
22 full force and effect from and after its passage and approval.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

159J0083

SENATE HEALTH AND HUMAN SERVICES COMMITTEE ENGROSSED NO. **SB 3** - 01/21/2004

Introduced by: Senators Knudson, Albers, Dempster, Dennert, and Symens and Representatives Weems, Christensen, Davis, Hackl, Hanson, Hargens, Hundstad, Koistinen, McCoy, and Wick at the request of the Interim Committee on Property Tax Exemptions

1 FOR AN ACT ENTITLED, An Act to revise the criteria for congregate housing to be exempt
2 from property taxation.

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

4 Section 1. That § 10-4-9.3 be amended to read as follows:

5 10-4-9.3. Property owned by any corporation, organization, or society and used primarily
6 for human health care and health care related purposes is exempt from taxation. Such
7 corporation, organization or society ~~must~~ shall be nonprofit and recognized as an exempt
8 organization under section 501(c)(3) of the United States Internal Revenue Code ~~of 1954~~, as
9 amended, and in effect on January 1, ~~1986~~ 2004, and ~~may not have any~~ none of its assets may
10 be available to any private interest. ~~Such~~ The property ~~may~~ shall be a ~~hospital, sanitarium~~ health
11 care facility licensed pursuant to chapter 34-12, orphanage, mental health center or adjustment
12 training center regulated under chapter 27A-5, ~~asylum, home, resort, congregate housing~~ or
13 camp. ~~Congregate housing is health care related if it is an assisted, independent group-living~~
14 ~~environment operated by a health care facility licensed under chapter 34-12 which offers~~



1 ~~residential accommodations and supporting services primarily for persons at least sixty-two~~
2 ~~years of age or disabled as defined under chapter 10-6A. Supporting services must include the~~
3 ~~ability to provide health care and must include a food service which provides a balanced~~
4 ~~nutrition program. Such health care~~ The facility must shall admit all persons for treatment
5 consistent with the facility's ability to provide ~~medical~~ health care services required by the
6 patient until ~~such~~ the facility is filled to its ordinary capacity and ~~must~~ conform to all applicable
7 regulations of and permit inspections by the ~~South Dakota Department of Health~~ state as
8 otherwise provided by law.

9 Section 2. That chapter 10-4 be amended by adding thereto a NEW SECTION to read as
10 follows:

11 Any congregate housing facility owned by a corporation, organization, or society is exempt
12 from certain property taxes, if the facility provides certain health care services and is recognized
13 as an exempt nonprofit corporation, organization, or society under section 501(c)(3) of the
14 United States Internal Revenue Code, as of January 1, 2004, and if none of its assets are
15 available to any private interest. A congregate housing facility does provide health care services
16 if the facility is an independent group-living environment operated and owned by a health care
17 facility licensed pursuant to chapter 34-12 which offers a continuum of care, residential
18 accommodations, and supporting services primarily for persons at least sixty-two years of age
19 or disabled as defined pursuant to chapter 10-6A. Supporting services include the ability to
20 provide health care and a food service that satisfies a balanced nutrition program. As part of the
21 statement required by § 10-4-19, the owner of the congregate housing facility shall submit a
22 statement to the county director of equalization listing the health cares services provided and
23 method used to satisfy the balanced nutrition program.

24 In addition, no owner may apply for a property tax exemption for a congregate housing

1 facility constructed after July 1, 2004, unless the congregate housing facility:

- 2 (1) Consists of two or more individual housing units located within one structure; and
- 3 (2) Not more than twenty-five percent of the individual housing units exceed fifteen
4 hundred square feet.

5 Section 3. That chapter 10-4 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 For the purposes of section 2 of this Act, the term, continuum of care, means the ability of
8 a licensed health care facility to provide living accommodations to any resident living in a
9 congregate housing facility owned by such health care facility. If the resident requires additional
10 health care services, the health care facility shall have sufficient facilities to permit residents to
11 move into another level of care. This section does not require such health care facility to
12 necessarily offer services normally provided by a hospital.

13 Section 4. That § 10-4-12 be amended to read as follows:

14 10-4-12. If property owned by any health care organization or charitable, benevolent, or
15 religious society described in section 2 of this Act and §§ 10-4-9 to 10-4-9.3, inclusive, other
16 than agricultural land, is used partly by such health care organization or charitable, benevolent,
17 or religious society for health care, charitable, benevolent, or religious purposes, and the
18 remaining part is occupied, rented, or used for other than health care, charitable, benevolent, or
19 religious purposes, ~~such~~ the portion of property as that is so occupied, rented, or used for other
20 ~~than health care, charitable, benevolent, or religious~~ purposes, shall be taxed as other property
21 of the same class is taxed. For the purpose of determining the value of the taxable portion of the
22 property, the appraised value of the entire property shall be multiplied by the percentage of the
23 entire property used for other than health care, charitable, benevolent, or religious purposes. The
24 resulting value shall be multiplied by the percentage of time ~~such~~ the property is used for other

- 1 than health care, charitable, benevolent, or religious purposes. The resulting value shall be the
- 2 assessed value for taxation purposes.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

447J0247

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **SB 13** - 02/05/2004

Introduced by: The Committee on Local Government at the request of the Office of the
Secretary of State

1 FOR AN ACT ENTITLED, An Act to revise the residency requirements for voting purposes
2 and to revise the criteria for determining if any person has voted more than once at any
3 election.

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

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

6 12-1-4. For the purposes of this title, the term, residence, means the place in which a person
7 has fixed his or her habitation and to which the person, whenever absent, intends to return.

8 A person who has left home and gone into another state or territory or county of this state
9 for a temporary purpose only has not changed his or her residence.

10 A person is considered to have gained a residence in any county or municipality of this state
11 in which the person actually lives, if the person has no present intention of leaving ~~and has~~
12 ~~actually resided in South Dakota for at least thirty consecutive days.~~

13 If a person moves to another state, or to any of the other territories, with the intention of
14 making it his or her permanent home, the person thereby loses residence in this state.

15 Section 2. That § 12-26-8 be amended to read as follows:



1 12-26-8. A person who votes more than once at any election or who offers to vote after
2 having once voted, either in the same or in another election precinct in South Dakota or
3 elsewhere, is guilty of a Class 1 misdemeanor.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

447J0252

SENATE ENGROSSED NO. **SB 15** - 01/27/2004

Introduced by: The Committee on Local Government at the request of the Office of the
Secretary of State

1 FOR AN ACT ENTITLED, An Act to revise certain miscellaneous procedures at the polling
2 place and to provide certain penalties.

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

4 Section 1. That § 12-15-9 be amended to read as follows:

5 12-15-9. Before performing election day duties, each precinct superintendent and precinct
6 deputy of the election and counting boards shall severally take an oath in the following form:

7 I, A.B., do solemnly swear (or affirm) that I will perform the duties of precinct
8 superintendent (or precinct deputy) according to law and the best of my ability and that I will
9 studiously endeavor to prevent fraud, deceit, and abuse and that I will act in an impartial manner
10 in conducting the election about to be held.

11 The members of the precinct election board may administer the oath to each other. The
12 person administering the oaths shall cause an entry thereof to be made and signed by the person
13 and prefixed to the pollbook. A violation of this oath is a Class 1 misdemeanor.

14 Section 2. That § 12-17B-7 be amended to read as follows:

15 12-17B-7. Before entering the voting booth, ~~each~~ any voter ~~shall be offered~~ may request



1 instruction in the proper procedure for marking the ballot to ensure that the tabulating equipment
2 is able to read the vote cast. No instructions may be given after the voter has entered the voting
3 booth. No precinct official or person assisting a voter may in any manner request, suggest, or
4 seek to persuade or induce any voter to cast a vote for any particular ticket, candidate, or
5 measure to be voted on. All instructions shall be given in such a manner that it may be observed
6 by other persons in the polling place.

7 Section 3. That § 12-18-6.1 be amended to read as follows:

8 12-18-6.1. ~~Before a person makes an application for ballots~~ When a voter is requesting a
9 ballot, the voter shall present a valid form of personal identification. The personal identification
10 that may be presented shall be either:

- 11 (1) A South Dakota driver's license or nondriver identification card;
- 12 (2) A passport or an identification card, including a picture, issued by an agency of the
13 United States government;
- 14 (3) A tribal identification card, including a picture; or
- 15 (4) An identification card, including a picture, issued by a high school or an accredited
16 institution of higher education, including a university, college, or technical school,
17 located within the State of South Dakota.

18 Section 4. That § 12-18-9 be amended to read as follows:

19 12-18-9. Any person, ~~except a candidate who is on the ballot being voted on at that polling~~
20 place, may be present at any polling place for the purpose of observing the voting ~~and counting~~
21 process. Any person may be present to observe the counting process. A candidate who is on the
22 ballot being voted on at a polling place may only be present to cast the candidate's vote during
23 voting hours. A number of poll watchers shall be permitted for each candidate at a primary
24 election or political party and independent candidate at a general election pursuant to

1 § 12-18-8.1. ~~Poll watchers shall be allowed to position themselves~~ Each polling place shall be
2 arranged in a manner that permits each poll watcher to be positioned in a location where they
3 the poll watcher can plainly see and hear what is done within the polling place, ~~and such polling~~
4 ~~place shall be arranged that poll watchers shall be so accommodated.~~

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

400J0325

SENATE APPROPRIATIONS COMMITTEE

ENGROSSED NO. **SB 19** - 02/06/2004

Introduced by: The Committee on Appropriations at the request of the Department of
Agriculture

1 FOR AN ACT ENTITLED, An Act to make an appropriation to the state fair for the repayment
2 of debt and to declare an emergency.

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

4 Section 1. There is hereby appropriated from the general fund the sum of one million three
5 hundred seventy thousand dollars (\$1,370,000), or so much thereof as may be necessary, to the
6 state fair for the payment of debt incurred by the state fair.

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

9 Section 3. Any amounts appropriated in this Act not lawfully expended or obligated by
10 June 30, 2005, shall revert in accordance with § 4-8-21.

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



State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

400J0318

SENATE AGRICULTURE AND NATURAL RESOURCES COMMITTEE ENGROSSED NO. **SB 21** - 01/21/2004

Introduced by: The Committee on Agriculture and Natural Resources at the request of the
Department of Agriculture

1 FOR AN ACT ENTITLED, An Act to revise certain provisions of the South Dakota Family
2 Farm Act.

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

4 Section 1. That § 47-9A-3.1 be amended to read as follows:

5 47-9A-3.1. The restrictions of §§ 47-9A-1 and 47-9A-3 do not apply to the cultivation of
6 edible fruits, vegetables or mushrooms if such cultivation occurs within a greenhouse or other
7 enclosed or semi-enclosed structure.

8 Section 2. That § 47-9A-3.2 be amended to read as follows:

9 47-9A-3.2. The restrictions of §§ 47-9A-1 and 47-9A-3 do not apply to facilities acquired
10 by a corporation for the purpose of feeding poultry for the production of meat or eggs.

11 Section 3. That § 47-9A-5 be amended to read as follows:

12 47-9A-5. The restrictions of §§ 47-9A-1 and 47-9A-3 ~~shall do~~ not apply to agricultural land
13 and land capable of being used for farming which:

14 (1) Was owned by a corporation as of July 1, 1974, including the normal expansion of
15 such ownership at a rate not to exceed twenty percent, measured in acres, in any



1 five-year period; or

2 (2) Is leased by a corporation in an amount, measured in acres, not to exceed the acreage
3 under lease to such corporation as of July 1, 1974, and the additional acreage required
4 for normal expansion at a rate not to exceed twenty percent in any five-year period;
5 and the additional acreage necessary to meet the requirements of pollution control regulations.

6 Section 4. That § 47-9A-6 be amended to read as follows:

7 47-9A-6. The restrictions provided in §§ 47-9A-1 and 47-9A-3 ~~shall do~~ not apply to a bona
8 fide encumbrance taken for purposes of security.

9 Section 5. That § 47-9A-7 be amended to read as follows:

10 47-9A-7. The restrictions of §§ 47-9A-1 and 47-9A-3 ~~shall do~~ not apply to agricultural lands
11 acquired by a corporation by process of law in the collection of debts; or by any procedure for
12 the enforcement of a lien or claim thereon, whether created by mortgage or otherwise; ~~provided,~~
13 ~~however, that all lands.~~ However, any land so acquired shall be disposed of within ten years
14 after acquiring the title thereto, ~~and further provided that the.~~ In addition, no land so acquired
15 ~~shall not~~ may be used for farming during the ten-year period except under a lease to a family
16 farm unit, a family farm corporation or an authorized farm corporation. The aforementioned
17 ten-year limitation period shall be deemed a covenant running with the title to the land against
18 any corporate grantee or assignee or the successor of such corporation.

19 Section 6. That § 47-9A-8 be amended to read as follows:

20 47-9A-8. The restrictions of §§ 47-9A-1 and 47-9A-3 ~~shall do~~ not apply to gifts of
21 agricultural lands, either by grant or devise, to any corporation organized under chapter 47-22.

22 Section 7. That § 47-9A-9 be amended to read as follows:

23 47-9A-9. The restrictions of §§ 47-9A-1 and 47-9A-3 ~~shall do~~ not apply to ~~a farm operated~~
24 ~~for research or experimental purposes; provided, that any commercial sales from such farm shall~~

1 ~~be incidental to the research or experimental objectives of the corporation~~ any entity that
2 engages in farming primarily for scientific, medical, research, or experimental purposes.
3 However, any commercial sales from such farming shall be incidental to the scientific, medical,
4 research, or experimental objectives of the entity.

5 Section 8. That § 47-9A-10 be amended to read as follows:

6 47-9A-10. The restrictions of §§ ~~47-9A-1 and 47-9A-3~~ shall do not apply to agricultural land
7 operated by a corporation for the purpose of raising breeding stock for resale to farmers or
8 operated for the purpose of growing seed, nursery plants, or sod.

9 Section 9. That § 47-9A-11 be amended to read as follows:

10 47-9A-11. The restrictions of §§ ~~47-9A-1 and 47-9A-3~~ shall do not apply to agricultural
11 lands acquired by a corporation solely for the purpose of feeding livestock.

12 Section 10. That § 47-9A-12 be amended to read as follows:

13 47-9A-12. The restrictions of §§ ~~47-9A-1 and 47-9A-3~~ shall do not apply to agricultural land
14 acquired by a corporation other than a family farm corporation or authorized farm corporation
15 for immediate or potential use in nonfarming purposes. A corporation may hold such
16 agricultural land in such acreage or such form of ownership as may be necessary to its nonfarm
17 business operation; ~~provided, however, that.~~ However, pending the development of agricultural
18 land for nonfarm purposes, such land may not be used for farming except under lease to a family
19 farm unit, a family farm corporation or an authorized farm corporation, or except when
20 controlled through ownership, options, leaseholds or other agreements by a corporation which
21 has entered into an agreement with the United States of America pursuant to the New
22 Community Act of 1968, (Title IV of the Housing and Urban Development Act of 1968, 42
23 U.S.C. 3901-3914), as amended, or a subsidiary or assign of such a corporation.

24 Section 11. That § 47-9A-13 be amended to read as follows:

1 47-9A-13. The restrictions of §§ 47-9A-1 and 47-9A-3 ~~shall~~ do not apply to a family farm
2 corporation or an authorized farm corporation.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

400J0228

SENATE TAXATION COMMITTEE ENGROSSED NO. **SB 29** - 01/23/2004

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

1 FOR AN ACT ENTITLED, An Act to establish one rate for the telephone gross receipts tax and
2 to provide uniform methods to administer the tax.

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

4 Section 1. That § 10-33-21 be amended to read as follows:

5 10-33-21. All persons, corporations, cooperatives, and associations engaged in furnishing
6 and providing telephone and exchange service comprising rental and toll service by means of
7 wired circuits and otherwise and whose annual gross receipts are less than fifty million dollars
8 shall be taxed on the basis of gross receipts, ~~according to one of the two following schedules at~~
9 the rate of four percent. Any person, corporation, cooperative, association, or other entity subject
10 to the tax imposed by this section may add the tax imposed, or the average equivalent thereof,
11 to its bill for the service. ~~Whichever schedule provides the lesser percentage of tax shall be~~
12 applied by the Department of Revenue:

13 _____ SCHEDULE A

14 Percentage of



1	Average Number of Customers	Tax on
2	Per Mile of Line (Density)	Gross Revenue
3	Not more than 1	2
4	More than 1, but not more than 2	3
5	More than 2	4

6 ~~_____~~ SCHEDULE B

7		Percentage of
8		Tax on
9	Gross Annual Revenue	Gross Revenue
10	Not more than \$15,000	2
11	More than \$15,000, but not more than 20,000	3
12	More than \$20,000, but not more than 50,000,000	4

13 However, no telephone company operating in this state shall may be taxed less than an
 14 amount equal to fifty cents per year per telephone serviced. Further, each telephone company
 15 that was taxed in the five percent tax category for the calendar year 2001 shall pay an amount
 16 of tax to each school district of not less than the tax received by such school district in 2002 for
 17 the years 2003 and 2004; and each year thereafter, the tax paid shall be as provided in
 18 ~~SCHEDULE A or SCHEDULE B~~ of this section.

19 Section 2. That § 10-33-22 be amended to read as follows:

20 10-33-22. ~~The term, average number of customers per mile of line (density), as used in~~
 21 ~~§ 10-33-21 means total number of subscribers, customers, or patrons in this state, divided by~~
 22 ~~the total number of miles of line of such person, company, corporation, cooperative, or~~
 23 ~~association in this state. The term, line, as used in §§ 10-33-21 and 10-33-22 shall not~~
 24 ~~necessarily mean a single circuit but shall be the aggregate of all communications transmission~~
 25 ~~circuits, voice or otherwise, and associated attachments and appurtenances thereto. Such~~

1 ~~persons, corporations, cooperatives, and associations are herein referred to as "companies." The~~
2 ~~term, company, means any person, corporation, cooperative, association, or other entity~~
3 ~~providing telephone and exchange service, rental and toll service.~~

4 Section 3. That § 10-33-27 be amended to read as follows:

5 10-33-27. If the tax levied under § 10-33-21 is not paid on the due date a penalty of up to
6 five percent of the amount of the tax ~~shall~~ may be imposed for each month of delinquency, and
7 if any telephone company ~~shall fail~~ fails to report its gross receipts to the secretary of revenue
8 and regulation, ~~said the~~ the company ~~shall~~ may be penalized up to twenty-five percent of the tax
9 due. ~~Provided, further, that such~~ Such tax may be enforced and collected by distress and sale of
10 the personal and real property of such company in the same manner as is now provided for the
11 collection of real property taxes and mobile home taxes pursuant to chapter 10-22. The tax
12 levied under § 10-33-21 shall be administered pursuant to chapter 10-59, unless a contrary
13 provision in this chapter applies.

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

400J0354

HOUSE COMMERCE COMMITTEE ENGROSSED NO.

SB 37 - 02/12/2004

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

1 FOR AN ACT ENTITLED, An Act to provide for the filing and usage of certain property
2 casualty rates and to exempt certain size risks from rate and form approval.

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

4 Section 1. For the purposes of this Act, the term, exempt commercial policyholder, means
5 any person who applies for or procures any kind of property casualty insurance, except title or
6 workers' compensation insurance, through the use of a risk manager employed or retained by
7 such person, and meets at least two of the following qualifications:

- 8 (1) Has purchased the insurance with aggregate premiums in the sum of at least one
9 hundred thousand dollars during the most recently completed calendar year;
- 10 (2) Has a net worth of at least ten million dollars as reported in the policyholder's most
11 recently issued financial statement, reviewed or audited by an independent certified
12 public accountant;
- 13 (3) Has annual net revenues or net sales of at least ten million dollars as reported in the
14 policyholder's most recently issued financial statement, reviewed or audited by an
15 independent certified public accountant;



- 1 (4) Employs at least one hundred full-time employees, either individually or, if the
2 policyholder is a member of an affiliated group, collectively with all members of the
3 affiliated group;
- 4 (5) Has, if the policyholder is a nonprofit organization, an annual operating budget of at
5 least two million five hundred thousand dollars for the most recently completed
6 calendar or fiscal year, whichever applies;
- 7 (6) Has, if the policyholder is a public entity, an operating budget of at least ten million
8 dollars for the most recently completed calendar or fiscal year, whichever applies; or
- 9 (7) Has, if the policyholder is a municipality, a population of at least twenty thousand.

10 Section 2. For the purposes of this Act, the term, risk manager, means an employee of the
11 exempt commercial policyholder, or a third-party consultant retained by the policyholder who
12 provides skilled services in loss prevention, loss reduction, or risk and insurance coverage
13 analysis, and the purchase of insurance, and who possesses at least one of the following
14 credentials:

- 15 (1) A bachelor's or higher degree in risk management issued by an accredited college or
16 university;
- 17 (2) A designation as a chartered property and casualty underwriter issued by the
18 American Institute for Chartered Property and Casualty Underwriters and Insurance
19 Institute of America;
- 20 (3) A designation as an associate in risk management issued by the American Institute
21 for Chartered Property and Casualty Underwriters and Insurance Institute of
22 America;
- 23 (4) A designation as a certified risk manager issued by the National Alliance for
24 Insurance Education and Research;

- 1 (5) A designation as a fellow in risk management or RIMS fellow issued by the Global
2 Risk Management Institute; or
- 3 (6) At least seven years of experience in one or more of the following areas of
4 commercial property and casualty insurance:
 - 5 (a) Risk financing;
 - 6 (b) Claims administration;
 - 7 (c) Loss prevention; or
 - 8 (d) Risk and insurance coverage analysis.

9 Section 3. That chapter 58-24 be amended by adding thereto a NEW SECTION to read as
10 follows:

11 An insurer issuing a policy to an exempt commercial policyholder is exempt, except as
12 provided for in this Act, from the rate filing requirements of chapter 58-24 and the form filing
13 requirements of § 58-11-12. At the time of soliciting an exempt commercial policyholder to
14 purchase insurance, the insurance producer, or the insurer in the case of a direct procurement
15 from the insurer, shall disclose to the policyholder and the policyholder's risk manager, on a
16 form created by the insurer, that a premium or rate may be quoted or a policy form may be used
17 that is not subject to the rate and form filing requirements of the Division of Insurance.

18 Section 4. That chapter 58-24 be amended by adding thereto a NEW SECTION to read as
19 follows:

20 If a third-party consultant is retained by the exempt commercial policyholder to act as the
21 policyholder's risk manager when a quote for insurance is delivered to the policyholder, the
22 consultant shall disclose, in writing, the existence of any commission, fee, or contingency
23 arrangement the third-party consultant has with the insurer.

24 Section 5. That chapter 58-24 be amended by adding thereto a NEW SECTION to read as

1 follows:

2 The director may promulgate rules, pursuant to chapter 1-26, to carry out the provisions of
3 this Act to ensure that insurers make policyholders aware of their exempt status and that insurers
4 keep separate records of exempt policies. The rules may include certification, record keeping,
5 and notices.

6 Section 6. That chapter 58-24 be amended by adding thereto a NEW SECTION to read as
7 follows:

8 The insurer shall maintain copies of the disclosures required by this Act. The copies are
9 subject to examination. The insurer shall provide the copies to the division upon request as
10 provided by this title.

11 Section 7. That chapter 58-24 be amended by adding thereto a NEW SECTION to read as
12 follows:

13 Any insurer who sells any kind of insurance to an exempt commercial policyholder shall
14 maintain records relating to the insurance sales as required by this Act. At a minimum, the
15 records shall include: any data, statistics, rates, rating plans, rating systems, and underwriting
16 rules used in underwriting and issuing such policies; claims-made policy forms; annual
17 experience data on each risk insured, including written premiums, written premiums at a manual
18 rate, paid losses, outstanding losses, loss adjustment expenses, underwriting expenses,
19 underwriting profits, and profits from contingencies; and complaint information required under
20 South Dakota law.

21 The insurer shall maintain the records for five years. The insurer shall make such records
22 available for examination by the director at any reasonable hour.

23 Section 8. That § 58-24-10 be amended to read as follows:

24 58-24-10. Every insurer shall file with the director of the Division of Insurance every

1 manual, minimum, class rate, rating schedule, or rating plan and every other rating rule, and
2 every modification of any of the foregoing which it proposes to use. Every such filing shall state
3 the proposed effective date thereof, and shall indicate the character and extent of the coverage
4 contemplated. The filing date is the effective date thereof unless the insurer proposes an
5 effective date subsequent to the filing date.

6 This section does not apply to:

- 7 (1) Inland marine risks which by general custom of the business are not written
8 according to manual rates or rating plans; or
9 (2) Automobile and other motor vehicle insurance subject to § 58-24-10.1.

10 Section 9. That § 58-24-11 be repealed.

11 ~~58-24-11. Under the rules as the director shall adopt, the director may, by written order,~~
12 ~~suspend or modify the requirement of filing as to any kind of insurance, subdivision, or~~
13 ~~combination thereof, or as to classes of risks, the rates for which cannot practicably be filed~~
14 ~~before they are used. Such orders or rules shall be made known to insurers and rating~~
15 ~~organizations affected thereby. The director may make such examination as he may deem~~
16 ~~advisable to ascertain whether any rates affected by such order meet the standards set forth in~~
17 ~~§ 58-24-6.~~

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

400J0328

HOUSE TRANSPORTATION COMMITTEE

ENGROSSED NO. **SB 43** - 02/07/2004

Introduced by: The Committee on Transportation at the request of the Department of
Transportation

1 FOR AN ACT ENTITLED, An Act to authorize acquisition of utility corridors and to authorize
2 the use of such property to be regulated by administrative rule.

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

4 Section 1. That chapter 31-19 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 The Department of Transportation may acquire by gift, devise, purchase, or condemnation,
7 an easement or fee interest in real estate, other than a right-of-way, for the purpose of providing
8 a suitable location for the relocation of utility lines and facilities displaced as a result of a
9 highway construction project. After all displaced utility lines and facilities have been
10 appropriately relocated, the department may allow the use of such property by additional utilities
11 under the terms and conditions established by the department. The South Dakota Transportation
12 Commission may provide, by rules promulgated pursuant to chapter 1-26, for the terms and
13 conditions for use of such property by utilities.

14 Section 2. That chapter 31-19 be amended by adding thereto a NEW SECTION to read as
15 follows:



1 No owner or operator of utility lines or facilities displaced as a result of a highway
2 construction project may be compelled to relocate those utility lines or facilities to either an
3 easement or a fee interest acquired pursuant to section 1 of this Act.

4 Section 3. That § 31-19-2 be amended to read as follows:

5 31-19-2. Before acquiring land or material ~~for rights-of-way and borrow pit, either by~~
6 ~~purchase or by~~ condemnation, the Department of Transportation shall, by resolution, declare the
7 necessity for acquiring the land or material and file a copy of the resolution with the office of
8 right-of-way in the department of Transportation.

9 Section 4. That § 31-19-3 be amended to read as follows:

10 31-19-3. If land or material ~~for right-of-way and borrow pit~~ is to be acquired by
11 condemnation, the Department of Transportation, on behalf of the state and in its name, shall
12 file a petition in the circuit court for the county in which the property to be taken or damaged
13 is situated, praying that the just compensation be made and such property be ascertained by a
14 jury and shall name the Department of Transportation as the department of the state government
15 desiring to take or damage ~~said~~ the property on behalf of the state as plaintiff. All persons
16 having an interest in or a lien upon the property affected by the proceedings shall be named as
17 defendants so far as they ~~shall~~ may be known at the time of the filing of ~~same~~ the petition. It
18 shall contain a description of the property to be taken or damaged and shall contain a copy of
19 the related resolution of necessity; that was passed by the Transportation Commission ~~in relation~~
20 ~~thereto~~. The purpose for which the property is to be taken or damaged shall be clearly set forth
21 in the petition. It ~~shall~~ is not ~~be~~ necessary to specify the interest or claim of the several
22 defendants in the land or property affected by the proceedings. ~~Said~~ The petition shall be signed
23 and verified in the manner and as provided by § 15-6-11 relating to the signing of pleadings in
24 the circuit courts.

1 Section 5. That § 31-19-19 be amended to read as follows:

2 31-19-19. Whenever any land ~~or lands~~, easement in ~~same~~ land or material is necessary for
3 right-of-way in order to make a safe or proper grade, for the relocating of utility facilities, or for
4 widening, changing, relocating, constructing, reconstructing, maintaining, or repairing any
5 portion of the state trunk highway, or ~~whenever~~ if it is necessary for providing cut slopes,
6 borrow pits, channel changes, or to afford unobstructed vision on ~~said any~~ state trunk ~~highways~~
7 highway and at any point of danger to public travel, for right-of-way and borrow pit, the State
8 of South Dakota, through and by its Department of Transportation, or ~~counties which have been~~
9 any county authorized by agreement to acquire on behalf of the state ~~of South Dakota by~~
10 ~~agreement~~, shall acquire and pay for the same out of state highway funds unless it is otherwise
11 agreed. The cost of ~~said~~ the land or material and expense of purchase or condemnation shall be
12 paid as part of the cost of the state trunk highway unless otherwise agreed.

13 Section 6. That § 31-19-20 be amended to read as follows:

14 31-19-20. Whenever any land or material, dirt, sand, or gravel is required for the
15 construction, reconstruction, maintaining, or repairing of any portion of the state trunk highway,
16 ~~which~~ or for the relocating of utility facilities, and if the land or material, dirt, sand, or gravel
17 lies outside the right-of-way of ~~said~~ the highway or adjacent borrow pits, ~~it shall be the duty of~~
18 the state ~~to~~ shall purchase or condemn ~~said~~ the land or material, dirt, sand, or gravel and pay for
19 the same out of the state highway fund. ~~Said~~ The land or material, dirt, sand, or gravel may be
20 acquired either by purchase or condemnation and any cost or expense of purchase or
21 condemnation shall be paid for in the same manner as material, dirt, sand, or gravel or land is
22 paid for. In case of condemnation, the proceedings provided for condemnation ~~of right-of-way~~
23 ~~and borrow pit~~ in §§ 31-19-1 to 31-19-19, inclusive, or the provisions of chapter 21-35 ~~shall be~~
24 are applicable and either proceeding may be used.

1 Section 7. That chapter 31-19 be amended by adding thereto a NEW SECTION to read as
2 follows:

3 The acquiring of an easement or fee interest pursuant to section 1 of this Act may not be
4 admitted as evidence in any action under chapter 21-35 brought by any owner or operator of
5 utility lines or facilities displaced as a result of a highway construction project. Any easement
6 or fee interest acquired pursuant to section 1 of this Act may not serve as a basis for a finding
7 of fraud, bad faith, or abuse of discretion under § 21-35-10.1.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

400J0411

SENATE ENGROSSED NO. **SB 47** - 01/27/2004

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

1 FOR AN ACT ENTITLED, An Act to revise the bonding provisions on certain Board of
2 Regents capital projects.

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

4 Section 1. That subdivision (1) of section 3 of chapter 95 of the 2001 Session Laws be
5 amended to read as follows:

6 (1) The Cook classroom renovation or replacement space at Black Hills State University
7 in Spearfish, South Dakota, for an estimated cost of eight million two hundred fifty
8 thousand dollars provided that, in no event, may the building authority issue bonds
9 for more than two million ~~five hundred thousand~~ eight hundred six thousand eight
10 hundred seventy-eight dollars, for the Cook classroom renovation or replacement
11 space;

12 Section 2. That subdivision (2) of section 3 of chapter 95 of the 2001 Session Laws be
13 amended to read as follows:

14 (2) The technology classroom building renovation or replacement space at Dakota State
15 University in Madison, South Dakota, for an estimated cost of two million ~~five~~
16 ~~hundred thousand~~ one hundred ninety-three thousand one hundred twenty-two



1 dollars;

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

400J0233

HOUSE EDUCATION COMMITTEE ENGROSSED NO. **SB 50** - 02/12/2004

Introduced by: The Committee on Education at the request of the Department of Education

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the amount of time
2 graduating seniors may be released prior to the end of school.

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

4 Section 1. That § 13-26-2 be amended to read as follows:

5 13-26-2. The school board or governing body shall operate grades one through twelve in its
6 schools for at least a nine-month regular term in any one school year. The regular school term
7 may be conducted on a year-round basis and shall begin on a date established by the school
8 board. The Board of Education shall promulgate rules pursuant to chapter 1-26 governing the
9 operation and scheduling of year-round schools. Any school board or governing body may
10 release graduating high school seniors from school before the end of the regular term ~~if the~~
11 ~~release is for no more than three school days.~~ Make up time for school closing because of
12 weather, disease, or emergency need not exceed ten school days. Graduating seniors are excused
13 from make up time if the make up time occurs after the students have graduated or after
14 graduation exercises have been held. If classes have been convened and then are dismissed, or
15 if classes convene at a time later in the day than normal, because of inclement weather, that day



1 constitutes a school day in session equal to the number of hours planned for that day as
2 established in the local school district calendar for the year.

3 School boards are encouraged to provide time within the regular school term for curriculum
4 and staff development which shall be in addition to the time required in this section. Each
5 school board shall determine the appropriate amount of time for this activity and how best to
6 use the time based on local needs for program development, increased parent participation,
7 student contact, teachers' preparation, or other needs of the schools in the district. School ~~shall~~
8 ~~be~~ is in session only when classes are held and as provided in §§ 13-26-4 and 13-26-4.1. A
9 school board may operate a special term during the summer months.

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

580J0408

SENATE JUDICIARY COMMITTEE ENGROSSED NO.

SB 66 - 01/21/2004

Introduced by: Senators Olson (Ed), Albers, Dempster, Earley, Ham-Burr, Reedy, and Sutton (Dan) and Representatives Olson (Mel), Adelstein, Hennies, Hunhoff, Sebert, Solum, and Thompson

1 FOR AN ACT ENTITLED, An Act to revise the definition of an abused or neglected child to
2 include exposure to the manufacturing of methamphetamines.

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

4 Section 1. That § 26-8A-2 be amended to read as follows:

5 26-8A-2. In this chapter and chapter 26-7A, the term, abused or neglected child, means a
6 child:

7 (1) Whose parent, guardian, or custodian; has abandoned the child or has subjected the
8 child to mistreatment or abuse;

9 (2) Who lacks proper parental care through the actions or omissions of the child's parent,
10 guardian, or custodian;

11 (3) Whose environment is injurious to the child's welfare;

12 (4) Whose parent, guardian, or custodian fails or refuses to provide proper or necessary
13 subsistence, supervision, education, medical care, or any other care necessary for the
14 child's health, guidance, or well-being;



- 1 (5) Who is homeless, without proper care, or not domiciled with the child's parent,
2 guardian, or custodian through no fault of the child's parent, guardian, or custodian;
- 3 (6) Who is threatened with substantial harm;
- 4 (7) Who has sustained emotional harm or mental injury as indicated by an injury to the
5 child's intellectual or psychological capacity evidenced by an observable and
6 substantial impairment in the child's ability to function within the child's normal
7 range of performance and behavior, with due regard to the child's culture;
- 8 (8) Who is subject to sexual abuse, sexual molestation, or sexual exploitation by the
9 child's parent, guardian, custodian, or any other person responsible for the child's
10 care; ~~or~~
- 11 (9) Who was subject to prenatal exposure to abusive use of alcohol or any controlled
12 drug or substance not lawfully prescribed by a practitioner as authorized by chapters
13 22-42 and 34-20B; or
- 14 (10) Whose parent, guardian, or custodian has knowingly exposed the child to an
15 environment used for the manufacturing of methamphetamines.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

463J0533

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

SB 77 - 02/09/2004

Introduced by: Senators Schoenbeck, Abdallah, Albers, Dempster, and McCracken and
Representatives LaRue, Craddock, Cutler, Gillespie, Hennies, Kraus, and
Madsen

1 FOR AN ACT ENTITLED, An Act to provide that certain third and subsequent violations of
2 stalking protection orders are felony offenses.

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

4 Section 1. That § 22-19A-16 be amended to read as follows:

5 22-19A-16. If a temporary protection order or a protection order is granted pursuant to
6 §§ 22-19A-8 to 22-19A-16, inclusive, and the respondent or person to be restrained knows of
7 the order, violation of the order is a Class 1 misdemeanor. If any violation of this section
8 constitutes an assault pursuant to § 22-18-1.1, the violation is a Class 6 felony. If a respondent
9 or person to be restrained has been convicted of, or entered a plea of guilty to, two or more
10 violations of this section, the factual basis for which occurred after the date of the second
11 conviction, and occurred within five years of committing the current offense, the respondent or
12 person to be restrained is guilty of a Class 6 felony for any third or subsequent offense. Any
13 proceeding under §§ 22-19A-8 to 22-19A-16, inclusive, is in addition to other civil or criminal
14 remedies.



State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

445J0407

SENATE ENGROSSED NO. **SB 84** - 02/02/2004

Introduced by: Senators Olson (Ed), Abdallah, Albers, Brown, de Hueck, Koetzle, and Sutton (Dan) and Representatives Hackl, Garnos, Schafer, Sebert, and Sigdestad

1 FOR AN ACT ENTITLED, An Act to require certain sellers and lessors of residential property
2 to disclose any knowledge of the existence of prior manufacturing of methamphetamines
3 and to provide for development of a disclosure form.

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

5 Section 1. That chapter 43-32 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 In any hiring of a residential premises, any lessor who has actual knowledge of the existence
8 of any prior manufacturing of methamphetamines on the premises shall disclose that
9 information to any lessee or any person who may become a lessee. If the residential premises
10 consists of two or more housing units, the disclosure requirements provided by this section only
11 apply to the unit where there is knowledge of the existence of any prior manufacturing of
12 methamphetamines.

13 Section 2. That chapter 43-4 be amended by adding thereto a NEW SECTION to read as
14 follows:

15 In any selling of a residential premises, any seller who has actual knowledge of the existence



1 of any prior manufacturing of methamphetamines on the premises shall disclose that
2 information to any purchaser or any person who may become a purchaser.

3 Section 3. That chapter 36-21A be amended by adding thereto a NEW SECTION to read
4 as follows:

5 The commission shall develop a disclosure form, to be filled out by the seller, regarding a
6 purchaser's knowledge of the existence of any prior manufacturing of methamphetamines.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

663J0336

HOUSE TAXATION COMMITTEE ENGROSSED NO. **SB 86** - 02/12/2004

Introduced by: Senators Symens, Dempster, Ham-Burr, Koskan, and Moore and
Representatives Hanson, Pederson (Gordon), Sebert, and Sigdestad

1 FOR AN ACT ENTITLED, An Act to revise the requirements for determining whether
2 dwellings are eligible to be classified as owner-occupied single-family dwellings and to
3 repeal certain outdated provisions concerning the property tax relief program.

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

5 Section 1. That § 10-13-40 be amended to read as follows:

6 10-13-40. To be eligible for a property classification pursuant to § 10-13-39, the owner of
7 each owner-occupied dwelling, as defined in § 10-13-39, shall submit a certificate to the county
8 director of equalization stating such person is the owner and occupant of the dwelling as of the
9 assessment date pursuant to § 10-6-2 and that the dwelling is the owner's principal residence.
10 For purposes of this section, principal residence is the residence occupied by the owner for more
11 than half of the year. If the owner occupies two or more dwellings during an assessment year,
12 the owner shall provide the location of any other dwelling that the owner occupies when
13 submitting the certificate. The director of equalization may request appropriate documentation
14 from the owner when making the determination of eligibility. Any person may submit
15 information to the director of equalization that contests whether a dwelling is eligible to be



1 classified as an owner-occupied single-family dwelling. The director of equalization shall
2 review such information and make a determination of eligibility. The owner shall state on the
3 certificate the portion of the dwelling so occupied by the owner if it is less than fifty percent of
4 the dwelling or if the dwelling is a duplex, triplex, or fourplex. The owner-occupant shall submit
5 the certificate by March fifteenth. The owner of each manufactured or mobile home as defined
6 in § 32-3-1, shall submit a certificate to the county director of equalization stating such person
7 is the owner and occupant of the dwelling as of the assessment date. The owner-occupant of
8 each manufactured or mobile home shall submit the certificate during the time of registration
9 pursuant to §§ 10-9-3 to 10-9-4, inclusive. If the owner-occupant of a manufactured or mobile
10 home fails to submit the certificate by the date or time frame required pursuant to §§ 10-9-3 to
11 10-9-4, inclusive, it does not affect the eligibility of the property to be classified as an
12 owner-occupied dwelling. The owner-occupant shall sign the certificate under penalty of
13 perjury. If the director of equalization classifies the property, mobile home, or manufactured
14 home as owner-occupied single-family dwelling, it shall retain the classification until such time
15 as the property ownership is transferred or the property has a change in use. The new
16 owner-occupant of transferred property which is already classified as owner-occupied may meet
17 the requirements of this section by completing and filing the certificate of value required
18 pursuant to § 7-9-7 at the time of the transfer of the property. If the legal description of property
19 is changed or amended and the owner continues to reside in the dwelling that is classified as a
20 owner-occupied single-family dwelling, the owner shall retain the owner-occupied single-family
21 dwelling classification. The Department of Revenue and Regulation shall prescribe the form of
22 the certificate and the certificate of value required pursuant to § 7-9-7. Appeals regarding the
23 owner-occupied classification shall be made directly to the county board of equalization
24 pursuant to § 10-11-23.

1 Section 2. For the 2005 assessment year, the director of equalization in each county shall
2 review all properties classified as owner-occupied to determine that the property is the owner's
3 principal residence.

4 Section 3. That § 10-13-40.1 be repealed.

5 ~~10-13-40.1. Any person who physically delivered a certificate before August 1, 1995, to the~~
6 ~~county director of equalization or other county office located within the county courthouse~~
7 ~~stating such person was the owner and occupant of the dwelling as of July first of that year, and~~
8 ~~if such application was subsequently lost at the courthouse, the person may submit an affidavit~~
9 ~~under oath identifying the person who physically delivered the certificate and the specific~~
10 ~~location of delivery as well as the individual who received the certificate, either by name or~~
11 ~~physical description, and further affirming the following:~~

12 ~~(1) That a certificate was physically delivered to the county director of equalization or~~
13 ~~other county officer located within the county courthouse before August 1, 1995;~~

14 ~~(2) That the certificate was subsequently lost at the courthouse; and~~

15 ~~(3) That the person meets the requirements defined in § 10-13-40:~~

16 ~~The owner-occupant shall submit the affidavit before April 1, 1996. Each owner-occupied~~
17 ~~dwelling shall be reviewed and classified for the purpose of taxation in the same manner as the~~
18 ~~certifications for owner-occupied dwellings submitted before August first to be eligible for the~~
19 ~~property tax credit to be received in calendar year 1996. Any person who makes a false~~
20 ~~statement in the affidavit is guilty of perjury and subject to a felony conviction pursuant to~~
21 ~~§ 22-29-5.~~

22 Section 4. That § 10-13-40.2 be repealed.

23 ~~10-13-40.2. The county auditor shall submit a list to the Department of Revenue and~~
24 ~~Regulation of the owner-occupied dwellings that are classified pursuant to § 10-13-40.1 to be~~

1 eligible for the property tax credit. The Department of Revenue and Regulation shall refund the
2 property tax credit to the owner-occupant after November 1, 1996, upon confirmation from the
3 county auditor or county treasurer that the owner-occupant has paid the property taxes in full
4 for the dwelling.

5 Section 5. That § 10-13-41 be repealed.

6 ~~10-13-41. An owner of agricultural property shall receive a twenty percent credit toward the~~
7 ~~property taxes payable in 1996, excluding special assessments payable in 1996. For the purposes~~
8 ~~of this section, agricultural property includes agricultural structures located on agricultural land.~~

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

394J0546

HOUSE JUDICIARY COMMITTEE ENGROSSED NO. **SB 93** - 02/09/2004

Introduced by: Senators Albers, Dempster, Duniphan, Koetzle, Moore, Olson (Ed), Schoenbeck, and Sutton (Dan) and Representatives Gillespie, Buckingham, Christensen, Cutler, Dykstra, Hennies, Kraus, LaRue, Murschel, and Olson (Mel)

1 FOR AN ACT ENTITLED, An Act to provide that certain third and subsequent violations of
2 protection orders are felony offenses.

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

4 Section 1. That § 25-10-13 be amended to read as follows:

5 25-10-13. If a temporary protection order or a protection order is granted pursuant to this
6 chapter, and the respondent or person to be restrained knows of the order, violation of the order
7 is a Class 1 misdemeanor. If any violation of this section constitutes an assault pursuant to
8 § 22-18-1.1, the violation is a Class 6 felony. If a respondent or person to be restrained has been
9 convicted of, or entered a plea of guilty to, two or more violations of this section, the factual
10 basis for which occurred after the date of the second conviction, and occurred within five years
11 of committing the current offense, the respondent or person to be restrained is guilty of a Class
12 6 felony for any third or subsequent offense. Any proceeding under this chapter is in addition
13 to other civil or criminal remedies.



State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

636J0616

SENATE ENGROSSED NO. **SB 104** - 02/05/2004

Introduced by: Senators Knudson, Earley, Kelly, McCracken, Schoenbeck, and Sutton (Dan)
and Representatives Madsen, Christensen, Glenski, Heineman, Hunhoff,
McLaughlin, Nesselhuf, Schafer, and Weems

1 FOR AN ACT ENTITLED, An Act to provide certain economic development incentives in
2 specified areas.

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

4 Section 1. That § 13-13-10.2 be amended to read as follows:

5 13-13-10.2. The assessed value as determined in § 13-13-10.1 of any property in a tax
6 incremental district formed on or before December 31, 1994, and created pursuant to chapter
7 11-9 is the tax incremental base, as defined in § 11-9-19 until the tax incremental district ceases
8 to exist as provided in § 11-9-46. The assessed values, as determined in § 13-13-10.1 of any
9 property in a tax incremental district formed after December 31, 1994, and created pursuant to
10 chapter 11-9, is the total assessed value of the property determined by the Department of
11 Revenue and Regulation pursuant to § 11-9-24, until the tax incremental district ceases to exist
12 as provided in § 11-9-46. The provisions of this chapter do not apply to any tax incremental
13 district created after December 31, 1994, for industrial purposes. For the purposes of this
14 chapter, industrial includes only those activities generally recognized as industrial by zoning
15 authorities within the state, including any factory or any business engaged primarily in the



1 manufacturing or assembly of goods, the processing of raw materials, and the wholesale
2 distribution of products for resale. The provisions of this chapter do not apply to any tax
3 incremental district created after December 31, 2003, for economic development purposes. For
4 the purposes of this chapter, economic development includes any area where there is or will be
5 one or more businesses engaged in any activity defined as commercial or industrial by the
6 governing body that has zoning authority over the land contained within the tax incremental
7 district.

8 Section 2. That § 11-9-8 be amended to read as follows:

9 11-9-8. ~~In order to~~ To implement the provisions of this chapter, the resolution required by
10 § 11-9-5 shall contain findings that:

11 (1) Not less than twenty-five percent, by area, of the real property within the district is
12 a blighted area; and

13 (2) The improvement of the area is likely to enhance significantly the value of
14 substantially all of the other real property in the district;

15 ~~(3) If the municipality is a county, there are, or there is a reasonable likelihood that there~~
16 ~~will be, one or more businesses engaged in manufacturing or in the transportation,~~
17 ~~storage, processing, or sale of agricultural products, located within the district.~~

18 It is not necessary to identify the specific parcels meeting the criteria. No county may create
19 a tax incremental district located, in whole or in part, within a municipality, unless the
20 governing body of such municipality has consented thereto by resolution.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

922J0570

HOUSE HEALTH AND HUMAN SERVICES COMMITTEE ENGROSSED NO. **SB 117** - 02/11/2004

Introduced by: Senators Olson (Ed), Brown, Dempster, Ham-Burr, Moore, and Sutton (Dan)
and Representatives Van Etten, Garnos, Gillespie, Haverly, Hennies, Kraus,
McCoy, and Murschel

1 FOR AN ACT ENTITLED, An Act to establish a task force to improve the quality and
2 availability of child care and early learning opportunities.

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

4 Section 1. There is hereby established a task force to improve the quality and availability
5 of child care and early learning opportunities. The task force shall examine the current child care
6 and early learning system for children in South Dakota and provide recommendations for
7 improvement in a report to the Eightieth Session of the Legislative Assembly. The evaluation
8 by the task force shall include the following areas within the child care and early learning
9 system:

- 10 (1) Review the current provision of services, pending initiatives, ongoing planning
11 activities, and funding sources available;
- 12 (2) Review national best practices and incentives to improve quality with an emphasis
13 on service delivery in rural states;
- 14 (3) Identify possible gaps in the continuum of services and seek solutions building upon



1 or enhancing current systems to prevent duplication of services; and

2 (4) Identify barriers to quality child care and availability, such as caregiver turnover,
3 caregiver pay and benefits, professional development opportunities, consumer
4 awareness of quality care and learning, funding adequacy, and service access in rural
5 areas.

6 Section 2. The task force to improve child care and early learning opportunities may not
7 exceed twenty members. The Executive Board of the Legislative Research Council shall appoint
8 one senator and one representative to the task force. The secretary of social services shall
9 appoint no more than eighteen members to the task force. The secretary's appointments shall
10 include parents of children in paid child care; provider representatives from registered and
11 unregistered family day care homes, group family day care homes, and day care centers;
12 professionals in early childhood education; representatives of advocacy organizations; family
13 members with, or representatives of, a child with special health care needs who requires day
14 care; representatives of business and economic development; and representatives of the
15 Department of Education, the Department of Social Services, the Department of Health, and the
16 Department of Human Services.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

570J0498

SENATE AGRICULTURE AND NATURAL RESOURCES COMMITTEE ENGROSSED NO. **SB 166** - 01/30/2004

Introduced by: Senator Greenfield

1 FOR AN ACT ENTITLED, An Act to revise certain licensing requirements for nonresident
2 dove hunters.

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

4 Section 1. That § 41-6-17 be amended to read as follows:

5 41-6-17. It is a Class 2 misdemeanor for a nonresident to hunt, take, or kill small game,
6 other than migratory waterfowl, without a nonresident small game license or in violation of the
7 conditions of the license or the rules of the Game, Fish and Parks Commission. ~~It~~ However, a
8 person who possesses a valid early fall Canada goose temporary nonresident waterfowl license
9 established by the Game, Fish and Parks Commission may hunt, take, or kill mourning dove
10 without a nonresident small game license during the applicable early fall Canada goose hunting
11 season and only in the unit permitted for the taking of the Canada geese. Except as otherwise
12 provided in this section, it is a Class 2 misdemeanor for a nonresident to hunt, take, or kill
13 mourning dove and snipe without a nonresident small game license and a migratory bird
14 certification permit, or in violation of the rules of the Game, Fish and Parks Commission. It is
15 a Class 2 misdemeanor for a nonresident to hunt, take, or kill sandhill crane without a



1 nonresident small game license or nonresident waterfowl license and a migratory bird
2 certification permit, or in violation of the rules of the Game, Fish and Parks Commission.

3 A nonresident small game license, except as otherwise provided in this title and except for
4 the taking of migratory waterfowl, entitles the licensee to all of the privileges of a resident small
5 game hunting license for two periods of five consecutive days.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

760J0540

SENATE JUDICIARY COMMITTEE ENGROSSED NO. **SB 181** - 02/04/2004

Introduced by: Senators Kooistra and Schoenbeck and Representatives Gillespie, Cutler, and Deadrick (Thomas)

1 FOR AN ACT ENTITLED, An Act to require notice before relocating a child not living with
2 both legal parents.

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

4 Section 1. If an existing custody order or other enforceable agreement does not expressly
5 govern the relocation of the principal residence of a child, a parent who intends to change his
6 or her principal residence shall, provide reasonable written notice by certified mail or admission
7 of service to the other legal parent of the child. Reasonable notice is notice that is given at least
8 forty-five days before relocation unless the court of record finds good cause for a shorter period
9 of notice. Proof of the notice shall be filed with the court of record unless notice is waived by
10 the court.

11 No notice need be provided pursuant to this section if:

- 12 (1) The relocation results in the child moving closer to the noncustodial parent; or
13 (2) The relocation is within the boundaries of the child's current school district; or
14 (3) There is an existing valid protection order in favor of the child or the custodial parent
15 against the noncustodial parent; or



1 (4) Within the preceding twelve months, the nonrelocating parent has been convicted of
2 violation of a protection order, criminal assault, child abuse, or other domestic
3 violence and either the child or the custodial parent was the victim of the crime or
4 violation.

5 Section 2. The notice required in section 1 of this Act shall contain the following:

- 6 (1) The address and telephone number, if known, of the new residence;
- 7 (2) The purpose for relocating;
- 8 (3) Why the relocation is in the best interest of the child; and
- 9 (4) The relocating party's proposed visitation plan for the nonrelocating parent upon
10 relocation.

11 Section 3. At the request of the nonrelocating parent, made within thirty days of the notice
12 of relocation, the court shall hold a hearing on the relocation. If no request for hearing is made
13 within thirty days of notice, the relocation is presumed to be consented to by the nonrelocating
14 parent.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

664J0757

HOUSE COMMERCE COMMITTEE ENGROSSED NO.

SB 183 - 02/12/2004

Introduced by: Senator Schoenbeck and Representatives Hennies, Klaudt, Lintz, Peterson
(Bill), and Teupel

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to short-term
2 mortgages.

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

4 Section 1. That § 21-49-14 be amended to read as follows:

5 21-49-14. Real estate mortgages, in any form, including ~~but not limited to~~, open end
6 mortgages, collateral real estate mortgages, renegotiated rate mortgages, shared appreciation
7 mortgages, and variable rate mortgages are authorized under the provisions of this chapter. The
8 provisions of § 7-9-7 ~~shall not be~~ relating to a date due are not applicable to ~~proceedings~~
9 mortgages under this chapter if the debt secured has no date due.

10 Section 2. The provisions of this Act do not affect the validity of any mortgage recorded
11 before July 1, 2004.



State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

714J0771

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **SB 209** - 02/12/2004

Introduced by: Senator LaPointe

1 FOR AN ACT ENTITLED, An Act to authorize certain municipalities to provide housing for
2 police officers and to declare an emergency.

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

4 Section 1. Any second or third class municipality within the State of South Dakota may
5 erect, purchase, lease, rent, equip, furnish, insure, sell, and move dwellings to be used as
6 housing for police officers and other police personnel of the municipality. Such municipality
7 may establish the terms and rental amounts under which such dwellings are occupied.

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

