



# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

578J0032

HOUSE EDUCATION COMMITTEE ENGROSSED NO.

**HB 1003** - 01/21/2004

Introduced by: Representatives Dykstra, Bartling, Bradford, Deadrick (Thomas), Elliott, Heineman, LaRue, McLaughlin, and Peterson (Jim) and Senators Duxbury and Koskan at the request of the Interim Committee on School District Educational Equality and Organization

1 FOR AN ACT ENTITLED, An Act to allow two or more school districts to include a proposed  
2 excess tax levy in their consolidation plan.

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

4 Section 1. That § 13-6-13 be amended to read as follows:

5 13-6-13. The plan shall contain:

- 6 (1) A map or maps showing the boundaries of the proposed district or districts, the  
7 boundaries of the existing districts involved, the location of existing and proposed  
8 attendance centers and a description of the facilities, and the proposed school bus  
9 routes, if any;
- 10 (2) A legal description of the boundaries of the proposed district or districts;
- 11 (3) Estimates of the school age population within the proposed district or districts;
- 12 (4) The assessed valuation of all taxable property of each existing district and of the  
13 proposed district or districts;
- 14 (5) Outstanding general obligation bonds of any component district, funds in all school



1 accounts and estimated receipts in all accounts in process of collection;

2 (6) If a joint district, the designation of the county of jurisdiction;

3 (7) The official name of the proposed district;

4 (8) A statement with regard to a proposed method of adjustment of assets and liabilities;

5 (9) The proposed number of school board members if a new entity is to be created;

6 (10) A description of the proposed educational program;

7 (11) A reasonably detailed budget showing estimated annual receipts and expenditures for  
8 the operation of the proposed district or districts;

9 (12) A statement recognizing any requests for minor boundary changes;

10 (13) Such additional information as may be necessary to show compliance with the  
11 standards for school districts as adopted by the South Dakota Board of Education.

12 ~~When~~ If the plan proposes the dissolution and annexation of a school district to one or more  
13 school districts, the school board of the receiving district, or districts, shall by resolution express  
14 their acceptance or rejection of all or part of the district to be dissolved as set forth in the  
15 proposed plan.

16 If the school boards of two or more school districts are developing a plan to consolidate, and  
17 two-thirds of the members of each affected school board agree, the plan may also include the  
18 provisions of an excess tax levy authorized in § 10-12-43 if an excess tax levy currently exists  
19 in one or more of the school districts. If the plan is approved by the voters, the proposed excess  
20 tax levy may be applied in the new consolidated school district. If a proposed excess tax levy  
21 is included in the plan, the plan shall state the amount of the proposed excess tax levy. The  
22 proposed excess tax levy may be applied for taxes payable in any of the five years following the  
23 date of reorganization. In addition, each school board involved in the development of the plan  
24 shall announce the inclusion of the proposed excess tax levy in the plan to the taxpayers in the

1 manner set forth in § 10-12-43.

# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

781J0300

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

**HB 1102 - 01/26/2004**

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

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

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

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

6 INTERSTATE COMPACT ON JUVENILES

7 ARTICLE I, PURPOSE

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



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

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

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

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

10 ARTICLE II, DEFINITIONS

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

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

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

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

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

10 ARTICLE III, INTERSTATE COMMISSION FOR JUVENILES

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

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

1 pleasure of the Governor.

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

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

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

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

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

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

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

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

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

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

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

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

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

2 ARTICLE IV, POWERS AND DUTIES OF THE INTERSTATE COMMISSION

3 The commission shall have the following powers and duties:

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

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

24 ARTICLE V, ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

1 Section A. By-laws

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

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

20 Section B. Officers and Staff

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

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

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

10 Section C. Qualified Immunity, Defense and Indemnification

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 ARTICLE VII, OVERSIGHT, ENFORCEMENT AND DISPUTE RESOLUTION

9 BY THE INTERSTATE COMMISSION

10 Section A. Oversight

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

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

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

24 Section B. Dispute Resolution.

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

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

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

12 ARTICLE VIII, FINANCE

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

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

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

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

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

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

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

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

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

7 report of the Interstate Commission.

8 ARTICLE IX, THE STATE COUNCIL

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

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

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

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

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

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

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

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

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

18 ARTICLE X, COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT

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

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

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

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

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

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

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

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

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

11 Section A. Withdrawal

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

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

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

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

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

1 Commission.

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

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

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

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

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

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

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

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

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

16 Section C. Judicial Enforcement

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

23 Section D. Dissolution of Compact

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

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

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

5 ARTICLE XII, SEVERABILITY AND CONSTRUCTION

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

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

10 ARTICLE XIII, BINDING EFFECT OF COMPACT AND OTHER LAWS

11 Section A. Other Laws.

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

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

16 Section B. Binding Effect of the Compact

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

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

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

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

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

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

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

9 INTERSTATE COMPACT ON JUVENILES

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

11 ARTICLE I

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

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

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

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

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

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

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

7 ~~ARTICLE II~~

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

11 ~~ARTICLE III~~

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

21 ~~ARTICLE IV~~

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

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

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

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

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

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

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

23 ARTICLE V

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

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

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

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

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

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

9 ARTICLE VI

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

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

6 ARTICLE VII

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

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

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

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

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

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

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

9 ~~ARTICLE IX~~

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

13 ~~ARTICLE X~~

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

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

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



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

3 ARTICLE XIV

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

12 ARTICLE XV

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

229J0277

HOUSE TAXATION COMMITTEE ENGROSSED NO.

**HB 1177** - 01/29/2004

Introduced by: Representatives Kraus, Haverly, Hunhoff, McCaulley, Nesselhuf, Novstrup, O'Brien, Smidt, and Van Etten and Senators Dempster, Brown, Kelly, Knudson, Olson (Ed), and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to repeal certain provisions prohibiting certain government  
2 purchases and to declare an emergency.

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

4 Section 1. That § 5-18-2.1 be repealed.

5 ~~— 5-18-2.1. No public corporation may purchase any goods or services from any retailer that~~  
6 ~~meets the definition of a retailer or a retailer maintaining a place of business in the state,~~  
7 ~~pursuant to subdivisions 10-46-1(8) and (9), if the retailer or any affiliate of the retailer fails or~~  
8 ~~refuses to collect and remit the sales and use tax on any sale delivered by any means to a~~  
9 ~~location within this state. The Department of Revenue shall provide a list to public corporations~~  
10 ~~of any retailer that fails to collect and remit the sales and use tax. For the purposes of this~~  
11 ~~section, the term, affiliate, is any person who directly or indirectly owns or controls, is owned~~  
12 ~~or controlled by, or is under common ownership or control with, another person. No public~~  
13 ~~corporation is liable for the breach of any duty required of the public corporation by the~~  
14 ~~provisions of this section if the breach, error, act, or omission is made in good faith. The~~



1 ~~provisions of this section do not apply to any emergency purchase made pursuant to § 5-18-3.1,~~  
2 ~~or to any purchase made pursuant to § 5-18-18.1, 5-18-18.2, or 5-18-9.4, or to any contract for~~  
3 ~~the construction of a new building or the remodeling or addition to an existing building or a~~  
4 ~~contract for any other public improvement which involves the expenditure of twenty-five~~  
5 ~~thousand dollars or more made pursuant to § 5-18-3.~~

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

# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

195J0513      **SENATE COMMERCE COMMITTEE ENGROSSED NO.**  
**SB 144 - 02/05/2004**

Introduced by: Senators Bogue, Apa, Moore, and Symens and Representatives Rave, Cutler, Hennies, Juhnke, Lange, McCaulley, O'Brien, Pederson (Gordon), Peterson (Bill), and Wick

1    FOR AN ACT ENTITLED, An Act to require certain telecommunications traffic signaling  
2        information to be provided to facilitate payment of inter-carrier compensation.

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

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

6        Terms used in this Act mean:

7        (1) "Interexchange carrier," a telecommunications carrier providing nonlocal  
8        telecommunications services;

9        (2) "Local telecommunications traffic," any wireline to wireline telecommunications  
10        traffic that originates and terminates in the same wireline local calling area or  
11        wireline to wireless telecommunications traffic that originates within and is delivered  
12        to an actual point of presence established by a wireless service provider in the same  
13        wireline local calling area. Local telecommunications traffic also includes any  
14        wireless to wireline telecommunications traffic that originates and terminates in the



1 same major trading area as defined in 47 CFR § 24.202(a) as of January 1, 2004;

2 (3) "Nonlocal telecommunications traffic," any wireline to wireline telecommunications  
3 traffic that originates in one wireline local calling area and terminates in another  
4 wireline local calling area and wireline to wireless telecommunications traffic that  
5 originates in one wireline local calling area and is delivered to an actual point of  
6 presence established by a wireless service provider in another wireline local calling  
7 area. Nonlocal telecommunications traffic also includes any wireless to wireline  
8 telecommunications traffic that originates in one major trading area and terminates  
9 in another major trading area;

10 (4) "Originating carrier," a telecommunications carrier whose network or service is used  
11 by a customer to originate telecommunications traffic. An originating carrier may be  
12 a wireline or wireless carrier transmitting local telecommunications traffic or an  
13 interexchange carrier transmitting nonlocal telecommunications traffic;

14 (5) "Terminating carrier," a telecommunications carrier upon whose network  
15 telecommunications traffic terminates to the called party;

16 (6) "Transiting carrier," a telecommunications carrier that does not originate or terminate  
17 telecommunications traffic, but either switches or transports traffic, or both, between  
18 an originating carrier and a terminating carrier;

19 (7) "Transit traffic," telecommunications traffic that an originating carrier has delivered  
20 to a transiting carrier or carriers for delivery to a terminating carrier.

21 Section 2. That chapter 49-31 be amended by adding thereto a NEW SECTION to read as  
22 follows:

23 If necessary for the assessment of transport and termination charges pursuant to 47 U.S.C.  
24 § 251(b)(5) as of January 1, 2004, an originating carrier of local telecommunications traffic

1 shall, in delivering its traffic, transmit signaling information in accordance with commonly  
2 accepted industry standards giving the terminating carrier information that is sufficient to  
3 identify, measure, and appropriately charge the originating carrier for services provided in  
4 terminating the local telecommunications traffic. If the originating carrier is delivering both  
5 local and nonlocal telecommunications traffic, the originating carrier shall separately provide  
6 the terminating carrier with accurate and verifiable information, including percentage  
7 measurements that enables the terminating carrier to appropriately classify telecommunications  
8 traffic as being either local or nonlocal, and interstate or intrastate, and to assess the appropriate  
9 applicable transport and termination or access charges. If accurate and verifiable information  
10 allowing appropriate classification of the terminated traffic is not provided by the originating  
11 carrier, the terminating carrier may classify all unidentified traffic terminated for the originating  
12 carrier as nonlocal telecommunications traffic for service billing purposes.

13 Section 3. That chapter 49-31 be amended by adding thereto a NEW SECTION to read as  
14 follows:

15 An originating carrier of nonlocal telecommunications traffic shall, in delivering its traffic,  
16 transmit signaling information in accordance with commonly accepted industry standards giving  
17 the terminating carrier information that is sufficient to identify, measure, and appropriately  
18 charge the originating carrier for services provided in terminating the nonlocal  
19 telecommunications traffic. If the originating carrier is delivering both intrastate and interstate  
20 nonlocal telecommunications traffic, the originating carrier shall separately provide the  
21 terminating carrier with accurate information including verifiable percentage measurements that  
22 enables the terminating carrier to appropriately classify nonlocal telecommunications traffic as  
23 being either interstate or intrastate, and to assess the appropriate applicable access charges. If  
24 accurate and verifiable information allowing appropriate classification of the

1 telecommunications traffic is not provided by the originating carrier, the terminating carrier may  
2 classify all unidentified nonlocal telecommunications traffic terminated for the originating  
3 carrier as intrastate telecommunications traffic for service billing purposes.

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

6 A transiting carrier shall deliver telecommunications traffic to the terminating carrier by  
7 means of facilities and signaling protocols that enable the terminating carrier to receive from  
8 the originating carrier all signaling information, as required by sections 2 and 3 of this Act, the  
9 originating carrier transmits with its telecommunications traffic. If any transiting carrier fails  
10 to deliver telecommunications traffic to another transiting carrier or to the terminating carrier  
11 with all of the signaling information transmitted by the originating carrier as required by  
12 sections 2 and 3 of this Act, and this results in telecommunications traffic that is not identifiable  
13 and therefore not billable by the terminating carrier to the appropriate originating carrier, the  
14 transiting carrier is liable to the terminating carrier for the transport and termination or access  
15 compensation relating to the traffic that cannot be identified and billed to the appropriate  
16 originating carrier.

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

19 Upon the request of a terminating carrier, the transiting carrier shall provide detailed transit  
20 traffic records or billing records related to the telecommunications traffic delivered to the  
21 terminating carrier.

22 Section 6. That chapter 49-31 be amended by adding thereto a NEW SECTION to read as  
23 follows:

24 Any telecommunications carrier damaged by noncompliance with the provisions of this Act

1 may file a complaint with the commission pursuant to the provisions of chapter 49-13. If a  
2 complaint is filed seeking enforcement of any of the provisions in this Act, the commission is  
3 authorized to order interim payments to the damaged party or other appropriate relief pending  
4 the final resolution of the complaint proceeding.

5 Section 7. That chapter 49-31 be amended by adding thereto a NEW SECTION to read as  
6 follows:

7 The commission may promulgate rules pursuant to chapter 1-26 for the purpose of  
8 implementing the provisions of this Act. The rules may address:

- 9 (1) Defining the terms used in this Act;
- 10 (2) Signaling information requirements;
- 11 (3) Carrier information necessary to appropriately classify telecommunications traffic;
- 12 (4) The handling of complaints filed by carriers under this Act; and
- 13 (5) Transit traffic records.

# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

572J0542

SENATE COMMERCE COMMITTEE ENGROSSED NO.

**SB 145** - 02/05/2004

Introduced by: Senators Koetzle, Abdallah, and Kloucek and Representatives LaRue, Miles, Nesselhuf, and Thompson

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding pensions allowed  
2 firefighters for impairment caused by cancer.

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

4 Section 1. That § 9-16-3.3 be amended to read as follows:

5 9-16-3.3. A pension ~~may~~ shall be allowed pursuant to § 9-16-3.2 for any condition of  
6 impairment of health caused by primary brain cancer, malignant melanoma, leukemia, multiple  
7 myeloma, non-Hodgkin's lymphoma, bladder cancer, ureter cancer, and kidney cancer resulting  
8 in total or partial disability to an officer or member of a fire department who has served at least  
9 five years, and who, upon entering such service or after employment, successfully passed a  
10 physical examination which failed to reveal any evidence of such condition. This section  
11 pertains solely to pension matters under this chapter and does not restrict a claimant's ability to  
12 file for benefits under chapter 62-8 or change the burden of proof established in § 62-8-12. Any  
13 total disability allowance provided by this section shall be equal to seventy-five percent of the  
14 highest annual compensation earned in any of the previous three years immediately preceding  
15 the date of the disability.



# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

574J0760

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **SB 163** - 02/04/2004

Introduced by: Senators Symens and Bogue and Representatives Peterson (Bill) and Olson  
(Mel)

1 FOR AN ACT ENTITLED, An Act to revise certain county zoning laws to provide for certain  
2 agricultural zoning.

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

4 Section 1. That § 11-2-1 be amended to read as follows:

5 11-2-1. Terms used in this chapter mean:

6 (1) "Board," the board of county commissioners;

7 (2) "Commission," "planning and zoning commission," "zoning commission," or  
8 "planning commission," any county planning and zoning commission created under  
9 the terms of this chapter;

10 (3) "Comprehensive plan," a document which describes in words, and may illustrate by  
11 maps, plats, charts, and other descriptive matter, the goals, policies, and objectives  
12 of the board to interrelate all functional and natural systems and activities relating to  
13 the development of the territory under its jurisdiction;

14 (4) "Governing body," the board of county commissioners, the city council or city  
15 commission;



- 1 (5) "Municipality," a city or town however organized;
- 2 (6) "Temporary zoning or subdivision ordinance," an ordinance adopted as an emergency  
3 measure for a limited duration;
- 4 (7) "Subdivision ordinance," any ordinance adopted by the board to regulate the  
5 subdivision of land so as to provide coordination of streets with other subdivisions  
6 and the major street plan, adequate areas set aside for public uses, water and  
7 sanitation facilities, drainage and flood control, and conformity with the  
8 comprehensive plan;
- 9 (8) "Subdivision," the division of any tract or parcel of land into two or more lots, sites,  
10 or other division for the purpose, whether immediate or future, of sale or building  
11 development. The term includes resubdivision. This definition does not apply to the  
12 conveyance of a portion of any previously platted tract, parcel, lot, or site if the  
13 conveyance does not cause the tract, parcel, lot, or site from which the portion is  
14 severed to be in violation of any existing zoning ordinance or subdivision ordinance  
15 applying to the tract, parcel, lot, or site;
- 16 (9) "Zoning map," the map that delineates the extent of each district or zone established  
17 in the zoning ordinance;
- 18 (10) "Zoning ordinance," any ordinance adopted by the board to implement the  
19 comprehensive plan by regulating the location and use of buildings and uses of land;
- 20 (11) "Agricultural zoning plan," a necessary and integral component of a comprehensive  
21 plan, and a written plan which identifies any portions of the county where agriculture  
22 is the preferred use and establishes specific procedures for resolving conflicts  
23 between agricultural use and other uses;
- 24 (12) "Agricultural zoning ordinance," a necessary action for implementing any

1 comprehensive plan, and an ordinance which protects the rights and economic  
2 viability of existing agricultural operations and establishes a specific set of goals,  
3 policies and objectives which will be followed by any decisions of the county to grant  
4 or deny a permit for agricultural uses in the county.

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

7 In adopting an agricultural zoning plan and related agricultural zoning ordinances, the  
8 county shall be guided by the following policies of the State of South Dakota:

- 9 (1) Agricultural development is necessary for the preservation of our rural economy;
- 10 (2) Development of new agricultural products and new uses of products is to be  
11 encouraged;
- 12 (3) Existing agricultural uses are to be protected from urban sprawl;
- 13 (4) In areas where agriculture is the preferred use, new construction of rural homes  
14 should not occur unless the construction is related to an agricultural use of the land  
15 where the home is to be built;
- 16 (5) Environmental regulation is primarily a function of federal and state governments;
- 17 (6) Existing agricultural development projects and those for which a plan is pending  
18 before the county prior to July 1, 2004, should be approved, if the use meets or  
19 exceeds all county requirements and federal and state environmental regulations; and
- 20 (7) County zoning may not be used in any manner to discriminate against any person or  
21 business because of race, color, creed, national origin, sex, age, or place of residence.

22 Section 3. That chapter 11-2 be amended by adding thereto a NEW SECTION to read as  
23 follows:

24 Any agricultural zoning plan shall include a permitting system for proposed agricultural

1 activities. The plan shall specify the types of activities for which a permit is required; all general  
2 restrictions rationally related to the type of activity; the procedures of obtaining permits; and the  
3 reasons and policy related to the denial, revocation, or suspension of any permit. A permit  
4 applicant, who has met or exceeded all conditions in the plan and any applicable laws and  
5 zoning ordinances, shall be granted a permit until revoked or suspended for good cause after  
6 notice and a meaningful opportunity to hear the causes presented and offer refuting evidence.

# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

664J0757

SENATE COMMERCE COMMITTEE ENGROSSED NO.

**SB 183** - 02/05/2004

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~~, except for the requirement of a due date, are applicable to  
9 proceedings under this chapter.

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

400J0702

## SENATE EDUCATION COMMITTEE ENGROSSED NO. **SB 205** - 02/05/2004

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

1 FOR AN ACT ENTITLED, An Act to provide for the distribution of certain money  
2 appropriated as state aid.

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

4 Section 1. The secretary of the Department of Education shall distribute any money, not to  
5 exceed seven million three hundred seven thousand eight hundred ninety-six dollars  
6 (\$7,307,896), from state aid which is not obligated or expended at the end of the fiscal year.

7 Section 2. For purposes of this Act, average daily membership means average daily  
8 membership as defined in § 13-13-10.1 for school fiscal year 2003.

9 Section 3. Each school district's share of the distribution provided for in section 1 of this Act  
10 is determined according to the following calculations:

11 (1) Divide each school district's average daily membership by the statewide average daily  
12 membership;

13 (2) Multiply the quotient obtained by calculation (1) by the total amount of money  
14 identified for distribution pursuant to section 1 of this Act.

15 Section 4. Any funds from state aid which are unspent at the end of fiscal year 2004 shall



1 be carried over to fiscal year 2005.

2 Section 5. This Act is effective on June 14, 2004.