

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

400J0391

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1056 - 01/30/2004

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

Introduced by: The Committee on Judiciary at the request of the Department of Game, Fish and Parks

1 FOR AN ACT ENTITLED, An Act to implement an interstate wildlife violator compact.

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

3 Section 1. An interstate wildlife violator compact is entered with all states legally joining
4 the compact in the form substantially as contained in this Act.

5 Section 2. The purpose of this Act and compact is to provide a means through which
6 participating states may join in a reciprocal program to provide for the fair and impartial
7 treatment of wildlife violators operating within participating states in recognition of the
8 violator's right to due process and the sovereign status of a participating state.

9 Section 3. Terms used in this Act and compact mean:

10 (1) "Citation," any summons, complaint, summons and complaint, ticket, penalty
11 assessment, or other official document that is issued to a person by a wildlife officer
12 or other peace officer for a wildlife violation and that contains an order requiring the
13 person to respond;

14 (2) "Collateral," any cash or other security deposited to secure an appearance for trial



1 in connection with the issuance by a wildlife officer or other peace officer of a
2 citation for a wildlife violation;

3 (3) "Compliance," with respect to a citation, the act of answering a citation through an
4 appearance in a court or tribunal, or through the payment of fines, costs, and
5 surcharges, if any;

6 (4) "Conviction," a conviction, including any court conviction, for any offense that is
7 related to the preservation, protection, management, or restoration of wildlife and that
8 is prohibited by state statute, law, regulation, ordinance, or administrative rule. The
9 term also includes the forfeiture of any bail, bond, or other security deposited to
10 secure appearance by a person charged with having committed any such offense, the
11 payment of a penalty assessment, a plea of nolo contendere, and the imposition of a
12 deferred or suspended sentence by the court;

13 (5) "Court," a court of law, including magistrate's court and the justice of the peace court,
14 if any;

15 (6) "Home state," the state of primary residence of a person;

16 (7) "Issuing state," the participating state that issues a wildlife citation to a violator;

17 (8) "License," any license, permit, or other public document that conveys to the person
18 to whom it was issued the privilege of pursuing, possessing, or taking any wildlife
19 regulated by statute, law, regulation, ordinance, or administrative rule of a
20 participating state;

21 (9) "Licensing authority," the department or division within each participating state that
22 is authorized by law to issue or approve licenses or permits to hunt, trap, fish, or
23 possess wildlife;

24 (10) "Participating state," any state that enacts legislation to become a member of this

1 wildlife compact;

2 (11) "Personal recognizance," an agreement by a person made at the time of issuance of
3 the wildlife citation that such person will comply with the terms of the citation;

4 (12) "State," any state, territory, or possession of the United States, the District of
5 Columbia, the Commonwealth of Puerto Rico, the provinces of Canada, and other
6 countries;

7 (13) "Suspension," any revocation, denial, or withdrawal of any or all license privileges,
8 including the privilege to apply for, purchase, or exercise the benefits conferred by
9 any license;

10 (14) "Terms of the citation," those conditions and options expressly stated in the citation;

11 (15) Wildlife," all species of animals including mammals, birds, fish, reptiles, amphibians,
12 mollusks, and crustaceans, which are defined as wildlife and are protected or
13 otherwise regulated by statute, law, regulation, ordinance, or administrative rule in
14 a participating state. Species included in the definition of wildlife for purposes of this
15 compact are based on state or local law;

16 (16) "Wildlife law," any statute, law, regulation, ordinance, or administrative rule
17 developed and enacted for the management of wildlife resources and the uses thereof;

18 (17) "Wildlife officer," any individual authorized by a participating state to issue a citation
19 for a wildlife violation;

20 (18) "Wildlife violation," any cited violation of a statute, law, regulation, ordinance, or
21 administrative rule developed and enacted for the management of wildlife resources
22 and the uses thereof.

23 Section 4. The Department of Game, Fish and Parks shall enforce the interstate wildlife
24 violator compact and shall do all things within the department's jurisdiction that are necessary

1 to effectuate the purposes and the intent of the compact.

2 Section 5. When issuing a citation for a wildlife violation, a wildlife officer may issue a
3 citation to any person whose primary residence is in a participating state in the same manner as
4 though the person was a resident of the issuing state and may not require such person to post
5 collateral to secure appearance, subject to the exceptions noted in section 6 of this Act, if the
6 officer receives the recognizance of such person that the person will comply with the terms of
7 the citation.

8 Section 6. Personal recognizance is acceptable:

- 9 (1) If not prohibited by state or local law or the compact manual; and
- 10 (2) If the violator provides adequate proof of identification to the wildlife officer.

11 Section 7. If a person fails to comply with the terms of a wildlife citation, the person's failure
12 to comply shall be reported to the licensing authority of the issuing state. The report shall be
13 made in accordance with procedures specified by the issuing state and shall contain information
14 as specified in the compact manual as minimum requirements for effective processing by the
15 licensing authority of the violator's home state.

16 Section 8. Upon receipt of the report of noncompliance pursuant to section 7 of this Act, the
17 licensing authority of the issuing state shall transmit to the licensing authority of the violator's
18 home state information related to the failure of the violator to comply with the terms of a
19 citation in the form and content as prescribed in the compact manual.

20 Section 9. Upon receipt of a report from the licensing authority of the issuing state reporting
21 the failure of a violator to comply with the terms of a citation, the licensing authority of the
22 violator's home state shall notify the violator of the failure to comply through personal contact
23 by a wildlife officer or in writing by certified mail. The notice shall afford the violator a period
24 of thirty consecutive days to comply with the terms of the citation. The thirty-day period shall

1 commence from the date of personal contact or from the date of mailing of the notice by
2 certified mail. If the violator fails to comply with the terms of the citation within the thirty-day
3 period, the licensing authority of the home state may then suspend the violator's hunting,
4 trapping, or fishing privileges until satisfactory evidence of compliance with the terms of the
5 citation has been furnished by the issuing state to the home state licensing authority. Due
6 process safeguards shall be accorded and the licensing authority of the home state shall maintain
7 a record of actions taken and shall make reports to issuing states as provided in the compact
8 manual.

9 Section 10. Upon suspending the hunting, trapping, or fishing privileges of any person
10 pursuant to sections 8 and 9 of this Act, the licensing authority of the home state shall notify the
11 person in writing by certified mail. Within twenty days following mailing of the notice of
12 suspension, the person may request a hearing before the South Dakota Game, Fish and Parks
13 Commission on whether the requirements for suspension have been met. Upon request of the
14 person, the commission shall set a hearing as early as practicable. The requesting person may
15 present evidence and arguments at the hearing contesting whether the person failed to comply
16 with the terms of a citation issued for a wildlife violation in a participating state. Grounds other
17 than those listed in this section may not be used to contest the licensing authority's decision to
18 suspend the person's privileges.

19 Section 11. At the hearing, the commission, through its authorized agent, may:

- 20 (1) Administer oaths;
- 21 (2) Issue subpoenas for the attendance of witnesses; and
- 22 (3) Admit all relevant evidence and documents, including notifications from
23 participating states.

24 Following the hearing, the commission, through its authorized agent, may, based on the

1 evidence, affirm, modify, or rescind the suspension of privileges.

2 Section 12. If the person fails to request a hearing within twenty days of mailing of the
3 notice of suspension, or if the suspension of hunting, trapping, or fishing privileges is affirmed
4 by the commission or its authorized agent following a required hearing, the suspension of
5 hunting, trapping, or fishing privileges shall become effective and the person shall surrender any
6 current South Dakota hunting, trapping, or fishing license to the licensing authority within
7 fourteen days.

8 Section 13. All participating states may recognize the suspension of license privileges of any
9 person by any participating state as though the violation resulting in the suspension had occurred
10 in their state and could have been the basis for suspension of license privileges in their state.

11 Section 14. Each participating state shall communicate suspension information to other
12 participating states in form and content as contained in the compact manual.

13 Section 15. If the licensing authority of the home state receives notice of the suspension of
14 a person's hunting, trapping, or fishing privileges by a participating state, the licensing authority
15 may suspend the person's hunting, trapping, or fishing privileges in the home state for the same
16 duration as imposed by the participating state in accordance with § 41-6-75.1. The licensing
17 authority of the home state shall notify the person of the suspension of hunting, trapping, fishing
18 privileges in writing and direct the person to surrender any current South Dakota hunting,
19 trapping, or fishing license to the licensing authority within fourteen days.

20 Section 16. Except as expressly required by this compact, nothing in this compact may be
21 construed to affect the right of any participating state to apply any of its laws relating to license
22 privileges to any person or circumstance or to invalidate or prevent any agreement or other
23 cooperative arrangement between a participating state and a nonparticipating state concerning
24 wildlife law enforcement.

1 Section 17. For the purposes of administering this Act and compact and to serve as a
2 governing body for the resolution of all matters relating to the operation of this compact, a board
3 of compact administrators is established. The board is composed of one representative from
4 each of the participating states to be known as the compact administrator. The compact
5 administrator shall be appointed by the head of the licensing authority of each participating state
6 and serves and is subject to removal in accordance with the laws of the state that the compact
7 administrator represents. A compact administrator may provide for the discharge of duties and
8 the performance of functions as a board member by an alternate. An alternate is not entitled to
9 serve unless written notification of the identity of the alternate has been given to the board.

10 Section 18. Each member of the board of compact administrators is entitled to one vote. No
11 action of the board is binding unless taken at a meeting at which a majority of the total number
12 of the board's votes are cast in favor of the action. Action by the board may be only at a meeting
13 at which a majority of the participating states is represented.

14 Section 19. The board shall elect annually from its membership a presiding officer and a
15 vice presiding officer.

16 Section 20. The board shall adopt bylaws consistent with the provisions of this Act and
17 compact or the laws of a participating state for the conduct of its business and may amend and
18 rescind its bylaws.

19 Section 21. The board may accept for any of its purposes and functions under this compact
20 any and all donations and grants of money, equipment, supplies, materials, and services,
21 conditional or otherwise, from any state, the United States, or any governmental agency, and
22 receive, utilize, and dispose of the same.

23 Section 22. The board may contract with, or accept services or personnel from, any
24 governmental or intergovernmental agency, individual, firm, or corporation, or any private

1 nonprofit organization or institution.

2 Section 23. The board shall formulate all necessary procedures and develop uniform forms
3 and documents for administering the provisions of this compact. All procedures and forms
4 adopted pursuant to board action must be contained in a compact manual.

5 Section 24. This compact becomes effective at such time as it is adopted in a substantially
6 similar form by two or more states.

7 Section 25. Entry into the compact shall be made by resolution of ratification approved by
8 the South Dakota Department of Game, Fish and Parks Commission and submitted to the
9 presiding officer of the board.

10 Section 26. The resolution shall substantially be in the form and content as provided in the
11 compact manual and shall include the following:

- 12 (1) A citation of the authority from which the state is empowered to become a party to
13 this compact;
- 14 (2) An agreement of compliance with the terms and provisions of this compact; and
- 15 (3) An agreement that compact entry is with all states participating in the compact and
16 with all additional states legally becoming a party to the compact.

17 Section 27. The effective date of entry shall be specified by the applying state but may not
18 be less than sixty days after notice has been given by the presiding officer of the board of the
19 compact administrators or by the secretariat of the board to each participating state that the
20 resolution from the applying state has been received.

21 Section 28. A participating state may withdraw from participation in this compact by official
22 written notice to each participating state. Withdrawal does not become effective until ninety
23 days after the notice of withdrawal is given. The notice shall be directed to the compact
24 administrator of each member state. Withdrawal of any state does not affect the validity of this

1 compact as to the remaining participating states.

2 Section 29. The South Dakota Department of Game, Fish and Parks Commission is
3 authorized on behalf of the state to enter or withdraw from the interstate wildlife violator
4 compact pursuant to the terms of sections 24, 25, and 26 of this Act.

5 Section 30. This compact may be amended. Amendments shall be presented in resolution
6 form to the presiding officer of the board of the compact administrators and shall be initiated
7 by one or more participating states.

8 Section 31. Adoption of an amendment requires endorsement by all participating states and
9 becomes effective thirty days after the date of the last endorsement.

10 Section 32. Failure of a participating state to respond to the compact presiding officer within
11 one hundred twenty days after receipt of a proposed amendment constitutes endorsement of the
12 amendment.

13 Section 33. The South Dakota Department of Game, Fish and Parks Commission is
14 authorized to adopt amendments to the interstate wildlife violator compact pursuant to the terms
15 of sections 30, 31, and 32 of this Act.

16 Section 34. This compact shall be liberally construed so as to effectuate its intended
17 purposes. The provisions of this compact are severable, and if any phrase, clause, sentence, or
18 provision of this compact is declared to be contrary to the constitution of any participating state
19 or the United States, or the applicability thereof to any government, agency, individual, or
20 circumstance is held invalid, the validity of the remainder of the compact is not affected thereby.
21 If this compact is held contrary to the constitution of any participating state, the compact
22 remains in full force and effect as to the remaining states and in full force and effect as to the
23 participating state affected as to all severable matters.

24 Section 35. A person whose hunting, trapping, or fishing privileges have been suspended

- 1 and who hunts, traps, or fishes in this state or who applies for or purchases any licenses or
- 2 permits to hunt, trap, or fish in this state, is guilty of a Class 1 misdemeanor.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

400J0400

HOUSE JUDICIARY COMMITTEE ENGROSSED NO. **HB 1079** - 01/16/2004

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

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding preliminary hearings
2 for parole violators.

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

4 Section 1. That § 24-15-23 be amended to read as follows:

5 24-15-23. ~~Within~~ Subject to the provisions of sections 2 and 3 of this Act, within ten
6 working days of the arrest of the parolee, a preliminary hearing shall be held. The preliminary
7 hearing shall be held before an independent hearing officer to determine if there is probable
8 cause to believe that the parolee has violated the terms and conditions of the parolee's parole
9 status. The parolee has the right to waive this preliminary hearing at any time after the order for
10 arrest has been issued by the executive director of the Board of Pardons and Paroles. If probable
11 cause is found to exist, the parolee is to be returned to the penitentiary, there to be held, for a
12 hearing to be held before the Board of Pardons and Paroles to determine whether the parole
13 should be revoked. If the parolee wishes to admit to an alleged violation of conditions of parole,
14 the parolee may waive a personal appearance at the revocation hearing with the board.

15 Section 2. That chapter 24-15 be amended by adding thereto a NEW SECTION to read as



1 follows:

2 A preliminary hearing as provided for in § 24-15-23 is not required if:

- 3 (1) The parolee is under arrest and being held on an order issued by a jurisdiction other
4 than the Board of Pardons and Paroles;
- 5 (2) The parolee left the state or other approved jurisdiction without authorization and
6 was apprehended outside of that jurisdiction; or
- 7 (3) The parolee was convicted of a felony or misdemeanor in a South Dakota court or a
8 court of another state or a federal court.

9 Section 3. That chapter 24-15 be amended by adding thereto a NEW SECTION to read as
10 follows:

11 If a preliminary hearing under § 24-15-23 is required and a parolee fails to receive a
12 preliminary hearing prior to the parolee's return to a Department of Corrections facility, the
13 parolee shall receive a preliminary hearing within ten working days of the parolee's return to a
14 Department of Corrections facility.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

391J0345

HOUSE HEALTH AND HUMAN SERVICES
COMMITTEE ENGROSSED NO. **HB 1096** -
02/02/2004

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

Introduced by: Representatives Van Etten, Gillespie, Haverly, Konold, Michels, O'Brien, and Wick and Senators Albers, Bogue, Duxbury, Earley, Ham-Burr, Moore, and Olson (Ed)

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding licensure by
2 examination for physicians.

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

4 Section 1. That § 36-4-17 be amended to read as follows:

5 36-4-17. The examination required by this chapter shall be in writing. The questions on all
6 subjects shall be such as are answered alike by all schools of medicine or osteopathy. No license
7 may be refused any applicant because of his adherence to any particular school of medicine.
8 Each applicant shall be required to attain an average percentage of at least seventy-five percent
9 of correct answers. Any applicant failing on such examination is eligible for a maximum of two
10 subsequent examinations upon payment of the required fee at any regular meeting of the Board
11 of Medical and Osteopathic Examiners or at such time and place as the board may designate.
12 Before taking the examination, the applicant shall pay to the secretary of the board a fee to be
13 set by the board in an amount not to exceed five hundred fifty dollars. The applicant must pass



1 all parts or steps of the examination within seven years. However, if the applicant is board-
2 certified by a board of the American Board of Medical Specialties, the Board of Medical and
3 Osteopathic Examiners may waive this requirement. All grades achieved shall be preserved by
4 the secretary of the board for a period of at least three years.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

229J0160

SENATE HEALTH AND HUMAN SERVICES
COMMITTEE ENGROSSED NO. HB 1111 -
02/07/2004

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

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

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

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

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



State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

834J0246

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB 1134** - 01/30/2004

Introduced by: Representatives Murschel, Elliott, and Solum and Senators Brown, Ham-Burr, and Reedy

1 FOR AN ACT ENTITLED, An Act to authorize municipalities to enter into development
2 agreements.

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

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

5 11-4-1. For the purpose of promoting health, safety, or the general welfare of the community
6 the governing body of any municipality may regulate and restrict the height, number of stories,
7 and size of buildings and other structures; the percentage of lot that may be occupied; the size
8 of the yards, courts, and other open spaces; the density of population; and the location and use
9 of buildings, structures, and land for trade, industry, residence, flood plain, or other purposes.
10 A municipality may enter into an agreement with any landowner specifying the conditions under
11 which the landowner's property may be developed.

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

14 A municipality may enter an agreement with any landowner specifying the conditions under
15 which the landowner's property may be annexed pursuant to § 9-4-1 or developed.



State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

559J0412

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB 1149** - 01/30/2004

Introduced by: Representatives Michels, Madsen, McCaulley, Peterson (Bill), and Teupel
and Senators Bogue, Koskan, and McCracken

1 FOR AN ACT ENTITLED, An Act to repeal the statutory authority relating to district
2 community centers.

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

4 Section 1. That § 42-1-1 be repealed.

5 ~~—42-1-1. A community center may be created and a community house therein erected,~~
6 ~~maintained, operated, and managed in any tract of contiguous territory containing not less than~~
7 ~~sixteen square miles or a population of at least one hundred inhabitants, such territory to be~~
8 ~~bounded by township or school district lines. Any such community may comprise two or more~~
9 ~~townships or school districts.~~

10 Section 2. That §§ 42-1-2 to 42-1-15, inclusive be repealed.



State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

931J0615

HOUSE ENGROSSED NO. **HB 1165** - 02/05/2004

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

Introduced by: Representatives Glenski, Engels, Hunhoff, Kraus, McCoy, Schafer, Smidt, Solum, and Van Gerpen and Senators Dempster and Kleven

1 FOR AN ACT ENTITLED, An Act to amend rule-making authority and rules to allow certain
2 facilities and hospice programs to redispense certain pharmaceutical drugs under certain
3 circumstances.

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

5 Section 1. That § 36-11-11 be amended by adding thereto a NEW SUBDIVISION to read
6 as follows:

7 Redispensing of pharmaceuticals.

8 Section 2. That ARSD 20:51:15:01 be amended by adding thereto a NEW SUBDIVISION
9 to read as follows:

10 "Hospice program," a coordinated program of inpatient services providing palliative rather
11 than curative care for a patient.

12 Section 3. That ARSD 20:51:13:02.01 be amended to read as follows:

13 20:51:13:02.01. Return of unused unit dose drugs by patients in hospice programs, nursing
14 facilities, or assisted living facilities. Only unused unit dose drugs from patients in a hospice
15 program, a nursing facility, or an assisted living facility may be returned to the pharmacy that



1 dispensed the drugs for credit and redispensing if the following requirements are met:

2 (1) The facility or hospice program consults with a licensed pharmacist to oversee the drug
3 distribution to ensure that a person trained and knowledgeable in the storage, use, and
4 administration of the drug has been in control of any unit dose drug being returned to the
5 pharmacy and that the unit dose drug has not come into the physical possession of the person
6 for whom it was prescribed;

7 (2) The pharmacy's manager has received written approval from the board of a protocol
8 detailing the procedure used to repackage, label, transfer, restock, redispense, and credit any unit
9 dose drugs returned to the pharmacy;

10 (3) The drugs are provided in the manufacturer's unit dose packaging or are repackaged by
11 the pharmacy in a hermetically sealed single unit dose container that meets Class A or Class B
12 standards on pages 1937 and 1938 of the United States Pharmacopeia;

13 (4) The unit dose package is labeled by the manufacturer with the drug lot number and
14 expiration date;

15 (5) If the drug is repackaged by the pharmacy, each single unit dose prepackaged or
16 repackaged container must be labeled in accordance with this regulation. Labeling must include
17 the following:

18 (a) Name and strength of the medication;

19 (b) A suitable expiration date which shall not be later than the expiration date on the
20 manufacturer's container, or one year maximum from the date the drug is prepackaged or
21 repackaged;

22 (c) The date the product was prepackaged or repackaged;

23 (d) The manufacturer's lot number, expiration date, and identity;

24 (e) The identity of the pharmacist responsible for prepackaging or repackaging;

1 If the requirements of subdivisions (d) and (e) are maintained in the internal
2 records of the drug outlet, those requirements may be omitted from the labeling.

3 (6) The drug's packaging is tamper resistant and shows no evidence of contamination, such
4 as an opened or stained container;

5 (7) The unit dose drugs have not reached the expiration date;

6 (8) The drugs have not been dispensed in packaging that intermingles different drugs in a
7 single compartment; and

8 (9) The drugs are not controlled drugs.

9 Unused unit dose drugs that are returned under this section may be redispensed pursuant to
10 § 20:51:13:02.03.

11 Section 4. That ARSD 20:51:13:02.03 be amended to read as follows:

12 20:51:13:02.03. Redispensing unit dose drugs returned from hospice programs, nursing
13 facilities, or assisted living facilities. Unused unit dose drugs that are returned under
14 § 20:51:13:02.01 may be redispensed under the following conditions:

15 (1) Drugs may not be removed and repackaged from the returned unit dose package prior
16 to redispensing;

17 (2) Drugs in a manufacturer's unit dose package may be redispensed as often as necessary,
18 if the integrity of the original product and package is maintained;

19 (3) Drugs which have been repackaged into a unit dose package by the pharmacy may be
20 redispensed into a unit dose distribution system and mixed with drugs of a different lot number
21 provided that all lot numbers and expiration dates are placed on the unit dose package;

22 (4) Drugs may be removed from a unit dose package for dispensing in a traditional
23 dispensing system as defined in § 20:51:21:01.

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

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

904J0714

SENATE COMMERCE COMMITTEE ENGROSSED NO.

SB 192 - 02/07/2004

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

Introduced by: Senators Dempster and Sutton (Dan) and Representatives Christensen and Cutler

1 FOR AN ACT ENTITLED, An Act to require participating providers to provide the same rates
2 to persons who have health savings accounts.

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

4 Section 1. That § 58-17C-14 be amended to read as follows:

5 58-17C-14. A health carrier offering a managed care plan shall satisfy all the following
6 requirements:

7 (1) A health carrier shall establish a mechanism by which the participating provider will
8 be notified on an ongoing basis of the specific covered health services for which the
9 provider will be responsible, including any limitations or conditions on services;

10 (2) In no event may a participating provider collect or attempt to collect from a covered
11 person any money owed to the provider by the health carrier nor may the provider
12 have any recourse against covered persons for any covered charges in excess of the
13 copayment, coinsurance, or deductible amounts specified in the coverage, including
14 covered persons who have a health savings account;



- 1 (3) The provisions of §§ 58-17C-7 to 58-17C-26, inclusive, do not require a health
2 carrier, its intermediaries or the provider networks with which they contract, to
3 employ specific providers or types of providers that may meet their selection criteria,
4 or to contract with or retain more providers or types of providers than are necessary
5 to maintain an adequate network;
- 6 (4) A health carrier shall notify participating providers of the providers' responsibilities
7 with respect to the health carrier's applicable administrative policies and programs,
8 including payment terms, utilization review, quality assessment, and improvement
9 programs, grievance procedures, data reporting requirements, confidentiality
10 requirements, and any applicable federal or state programs;
- 11 (5) A health carrier may not prohibit or penalize a participating provider from discussing
12 treatment options with covered persons irrespective of the health carrier's position on
13 the treatment options, from advocating on behalf of covered persons within the
14 utilization review or grievance processes established by the carrier or a person
15 contracting with the carrier or from, in good faith, reporting to state or federal
16 authorities any act or practice by the health carrier that jeopardizes patient health or
17 welfare;
- 18 (6) A health carrier shall contractually require a provider to make health records
19 available to the carrier upon request but only those health records necessary to
20 process claims, perform necessary quality assurance or quality improvement
21 programs, or to comply with any lawful request for information from appropriate
22 state authorities. Any person that is provided records pursuant to this section shall
23 maintain the confidentiality of such records and may not make such records available
24 to any other person who is not legally entitled to the records;

- 1 (7) A health carrier and participating provider shall provide at least sixty days written
2 notice to each other before terminating the contract without cause. If a provider is
3 terminated without cause or chooses to leave the network, upon request by the
4 provider or the covered person and upon agreement by the provider to follow all
5 applicable network requirements, the carrier shall permit the covered person to
6 continue an ongoing course of treatment for ninety days following the effective date
7 of contract termination. In the event of a covered person that has entered a second
8 trimester of pregnancy at the time of contract termination as specified in this section,
9 the continuation of network coverage through that provider shall extend to the
10 provision of postpartum care directly related to the delivery;
- 11 (8) A health carrier shall notify the participating providers of their obligations, if any, to
12 collect applicable coinsurance, copayments, or deductibles from covered persons
13 pursuant to the evidence of coverage, or of the providers' obligations, if any, to notify
14 covered persons of their personal financial obligations for noncovered services;
- 15 (9) A health carrier shall establish a mechanism by which the participating providers may
16 determine in a timely manner whether or not a person is covered by the carrier.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

745J0743

SENATE COMMERCE COMMITTEE ENGROSSED NO.

SB 193 - 02/07/2004

Introduced by: Senator Dempster and Representative Sebert

1 FOR AN ACT ENTITLED, An Act to restrict the investment of insurers in certain investment
2 assets.

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

4 Section 1. That chapter 58-27 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Notwithstanding the provisions of § 58-27-108, no insurer may invest more than twenty
7 percent of its admitted assets in any bonds, warrants, or evidence of indebtedness pursuant to
8 §§ 58-27-11 and 58-27-12. The valuation of such investments shall be the amortized cost of the
9 investments or the market value of the investments, whichever is less.

