

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

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

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

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

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

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

7 DEPARTMENT OF SOCIAL SERVICES

8 Medical Services

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

10 Adjust all totals accordingly.

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

13 DEPARTMENT OF EDUCATION

14 State Aid to General Education

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



1 Adjust all totals accordingly.

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

4 DEPARTMENT OF CORRECTIONS

5 Juvenile Community Corrections

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

7 Adjust all totals accordingly.

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

10 DEPARTMENT OF HUMAN SERVICES

11 Developmental Disabilities

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

13 South Dakota Developmental Center–Redfield

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

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

16 Rehabilitation Services

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

18 Human Services Center

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

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

21 Community Mental Health

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

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

24 Adjust all totals accordingly.

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

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

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

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

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

400J0393

HOUSE ENGROSSED NO. **HB 1049** - 01/21/2004

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

1 FOR AN ACT ENTITLED, An Act to establish the definition of a payday loan and to establish
2 limitations on such transactions.

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

4 Section 1. That § 54-4-36 be amended to read as follows:

5 54-4-36. Terms used in §§ 54-4-36 to 54-4-63, inclusive, and sections 2 and 3 of this Act
6 mean:

7 (1) "Advertisement," a commercial message in any medium that aids, promotes, or
8 assists, directly or indirectly, the sale of products or services;

9 (1A) "Commission," the State Banking Commission;

10 (1B) "Director," the director of the Division of Banking of the Department of Commerce
11 and Regulation;

12 (1C) "Division," the Division of Banking;

13 (3) "Finance charge," the amount, however denominated, which is paid or payable for
14 the privilege of paying for goods or services in one or more installments at the
15 beginning of the transaction;



- 1 (4) "Financing institutions," any person engaged in the business of creating and holding
- 2 or purchasing or acquiring retail installment contracts;
- 3 (6) "Installment loan," a loan made to be repaid in specified amounts over a certain
- 4 number of months;
- 5 (7) "License," a license provided by §§ 54-4-36 to 54-4-63, inclusive;
- 6 (8) "Installment loan contract" or "contract," an agreement evidencing a installment loan
- 7 transaction;
- 8 (9) "Licensee," any person holding a license;
- 9 (10) "Loan," any installment loan, single pay loan, or open-end loan which may be
- 10 unsecured or secured by real or personal property; and
- 11 (11) "Payday loan," any small, short-maturity loan on the security of a check, any
- 12 assignment of an interest in the account of a person at a depository institution, any
- 13 authorization to debit the person's deposit account, or any assignment of salary or
- 14 wages payable to a person. A short-maturity loan made in anticipation of an income
- 15 tax refund is not a payday loan for purposes of this chapter.

16 Section 2. That § 54-4-65 be amended to read as follows:

17 54-4-65. No licensee may renew, rollover, or flip a ~~deferred presentment service transaction~~
18 payday loan more than four times. No renewal, rollover, or flip ~~may be allowed~~ is valid unless
19 the ~~maker of the check~~ debtor pays the outstanding fee at the time of the renewal.

20 Section 3. That § 54-4-66 be amended to read as follows:

21 54-4-66. A licensee may not disburse more than five hundred dollars to the maker of a check
22 ~~in a deferred presentment service transaction.~~ No payday loan disbursed by a licensee may
23 exceed five hundred dollars. A violation of this section is a Class 1 misdemeanor.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

695J0125

SENATE EDUCATION COMMITTEE ENGROSSED NO.

HB 1114 - 02/12/2004

Introduced by: Representatives Dykstra, Bartling, Christensen, Gillespie, Hackl, Olson (Mel), and Peterson (Jim) and Senators Albers, Abdallah, Kooistra, and Vitter

1 FOR AN ACT ENTITLED, An Act to revise certain provisions related to school district
2 boundary changes.

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

4 Section 1. That § 13-6-84.1 be amended to read as follows:

5 13-6-84.1. In all proposed changes in school district boundaries, the following conditions
6 shall prevail:

7 (1) The boundary of the area proposed to be transferred shall be coterminous at some
8 point with the common boundary of the two school districts. Land owned by the
9 federal, state, or local governments and unoccupied land ~~owned by a nonresident~~
10 ~~individual or corporation~~ may be included in the request;

11 (2) Children must reside within the boundary of the area to be transferred, unless it is an
12 area change initiated by a school board as provided in § 13-6-84.2.

13 Section 2. That § 13-6-85 be amended to read as follows:

14 13-6-85. A boundary change, affecting not more than two percent of the assessed valuation
15 and not more than two percent of the tax-exempt acreage or other tax-exempt property to be



1 determined at the discretion of the school district from which the area is to be taken, may be
2 made upon an application for a boundary change to the school board of the school district from
3 which the area is to be taken and to the school board of the school district to which the area is
4 to be annexed, in the form of a petition signed by ~~over fifty percent~~ all of the ~~voters residing~~
5 owners of land, excluding land owned by the state or any other political subdivision in the area
6 to be transferred by the boundary change. Copies of the petitions shall also be delivered by the
7 petitioners to the board of county commissioners having jurisdiction over the school districts
8 affected. Any petitioner who is aggrieved by a decision of the school board under this section
9 may appeal that decision.

10 An appeal from the decision of the school board may be made to the circuit court in the time
11 and manner specified by § 13-46-1 or to the secretary of the Department of Education or ~~his~~ the
12 secretary's representative within thirty days from the date of the decision of the school board by
13 filing a notice with the secretary of the school board and mailing a copy ~~thereof~~ of the notice to
14 the secretary of the Department of Education. An appeal to the secretary of the Department of
15 Education may be heard by the secretary or ~~his~~ the secretary's representative. The secretary of
16 the Department of Education shall thereafter set a time and place for the hearing and give at
17 least ten days' written notice of the hearing to the parties involved in the appeal, including all
18 affected school districts. An appeal to the secretary is not a "contested case" subject to chapter
19 1-26. An appeal from the decision of the secretary may be made pursuant to § 13-6-89. On
20 appeal from a decision of the secretary, the appeal shall be heard and determined in the same
21 manner as a direct appeal from the school board decision pursuant to § 13-6-89 and chapter
22 13-46 without any presumption of the correctness of the decision of the secretary nor may the
23 provisions of § 1-26-36 be applied to the decision of the secretary. Nothing in this section ~~shall~~
24 ~~affect~~ affects the right of an aggrieved party to appeal from the decision of the school board to

1 the circuit court.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

833J0580

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1153** - 01/30/2004

Introduced by: Representatives Peterson (Bill), Madsen, Michels, and Olson (Mel) and
Senators Bogue, Brown, and Moore

1 FOR AN ACT ENTITLED, An Act to create a constitutional revision commission to make a
2 comprehensive study of the legislative article and related statutes and to consider and
3 recommend legislation for the improvement of the legislative article and related statutes.

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

5 Section 1. A commission is hereby created to provide for and enter into a comprehensive
6 study of Article III of the South Dakota Constitution and related statutes pertaining to the
7 Legislature to determine ways and means to improve Article III of the Constitution and related
8 statutes pertaining to the Legislature.

9 Section 2. The commission shall consist of seventeen members to be appointed as follows:

10 (1) Three by the president pro tempore of the South Dakota Senate, from former
11 members thereof, no more than two may be from one political party;

12 (2) Three by the speaker of the South Dakota House of Representatives, from former
13 members thereof, no more than two may be from one political party;

14 (3) Three by the Governor of South Dakota, each of whom shall be residents of the state
15 and no more than two may be from one political party;



1 (4) Three by the Governor of South Dakota, each of whom shall have a current or former
2 executive branch employment experience and no more than two may be from one
3 political party;

4 (5) Three by the Chief Justice of the Supreme Court of South Dakota from the members
5 in good standing of the State Bar of South Dakota, one of whom may be a judge of
6 a court of record in this state and no more than two may be from one political party;
7 and

8 (6) Two by the Governor, each of whom shall be a faculty member of a university or
9 college political science department located in the state.

10 Section 3. The commission shall meet during the 2004 and 2005 legislative interims. The
11 commission may hold meetings and hearings at times and places as it may designate. It shall
12 elect a chair, vice-chair, and such other officers from its membership as it deems necessary.

13 Section 4. The Legislative Research Council shall serve as the secretariat of the commission.
14 The Legislative Research Council shall assist in the conduct of such studies as may be directed
15 by the commission, utilizing the aid of consultants, private organizations, and institutions.

16 Section 5. The members of the commission shall be compensated in the same manner as
17 members of an interim legislative committee.

18 Section 6. The commission shall report its findings and recommendations in the form of
19 proposed amendments to the Constitution or the statutes to the Legislature at its regular session
20 in 2006. The content of any proposed constitutional amendment may only apply to the
21 Legislative article and may not affect the powers, duties, and responsibilities described in any
22 other article of the State Constitution.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

282J0596

HOUSE ENGROSSED NO. **HB 1157** - 02/06/2004

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

Introduced by: Representatives Cutler, Madsen, Michels, and O'Brien and Senators Bogue, Earley, McCracken, Olson (Ed), and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to provide a limitation of lender environmental liability for
2 cleanup and remediation costs if providing financing for a site participating in a brownfields
3 revitalization and economic development program.

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

5 Section 1. That chapter 34A-15 be amended by adding thereto a NEW SECTION to read
6 as follows:

7 Notwithstanding the provisions of § 34A-15-6, a lender-owner is not liable for
8 environmental, response, cleanup, or remediation costs at a brownfields site approved by the
9 Department of Environment and Natural Resources for participation in the state brownfields
10 revitalization and economic development program unless:

11 (1) The lender-owner, its employees, or agents directly cause an immediate release or
12 directly exacerbate a release of the regulated substances on or from the property or
13 directly violate any environmental statute or regulation; or

14 (2) The lender-owner, its employees, or agents knowingly and willfully compelled the
15 borrower to:



1 (a) Perform an action that caused an immediate release of regulated substances in
2 excess of reportable quantities; or

3 (b) Violate any environmental statute or regulation.

4 Liability pursuant to this section is limited to the cost for a response action or remediation
5 that is directly attributable to the lender-owner's activities set forth in subdivisions (1) and (2)
6 of this section. Liability arises only if the lender-owner's actions were the proximate cause of
7 the release or violation. Ownership or control of the property pursuant to a security interest
8 during or after foreclosure does not by itself result in liability. No lender-owner is liable for any
9 response action or remediation if the response action or remediation arises solely from a release
10 of regulated substances in excess of reportable quantities that occurred before or commences
11 before and continues after foreclosure. However, the lender-owner is responsible for the portion
12 of the response action or remediation that is directly attributable to the lender-owner's
13 aggravation of a release. A release of regulated substances in excess of reportable quantities
14 discovered in the course of conducting environmental due diligence is presumed to be a prior
15 or continuing release on the property.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

366J0600 **SENATE AGRICULTURE AND NATURAL RESOURCES**
COMMITTEE ENGROSSED NO. HB 1195 -
02/12/2004

Introduced by: Representatives Peterson (Jim) and Begalka and Senator Diedrich (Larry)

1 FOR AN ACT ENTITLED, An Act to revise the method used to value agricultural property.

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

3 Section 1. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as
4 follows:

5 If the median market value per acre for noncropland within a county deviates by more than
6 ten percent from the county median market value per acre of cropland, the county director of
7 equalization may make an adjustment to a noncropland parcel based on the percentage
8 difference between cropland and noncropland cash rent. The cash rent information shall be
9 obtained pursuant to § 10-6-33.25. For the purposes of this section, the term, noncropland,
10 means any native grassland or land seeded to grass with a soil capability rating less than the
11 county weighted average rating.



State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

447J0550

HOUSE TRANSPORTATION COMMITTEE
ENGROSSED NO. **HB 1196** - 02/02/2004

Introduced by: Representatives Weems, Pederson (Gordon), Peterson (Jim), and Rounds and
Senators Napoli, Abdallah, and Moore

1 FOR AN ACT ENTITLED, An Act to require certain auction agencies to disclose damage
2 statements or damage notations listed on the title.

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

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

6 If any motor vehicle has a title that has been marked by this state or another state or
7 jurisdiction denoting any brand or damage and that motor vehicle is offered for sale by a dealer's
8 car auction agency, the auction agency shall announce at the time of the sale that such brand or
9 damage notation is listed on the title. If the auction agency fails to comply with this section, the
10 purchaser of the motor vehicle may return the motor vehicle to the auction agency within ten
11 days after receiving the title, and the auction agency shall make a full refund to the purchaser.



State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

229J0112

SENATE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1203 - 02/11/2004

Introduced by: Representatives O'Brien, Haverly, Hennies, Kraus, McCaulley, Michels, Murschel, Sebert, and Smidt and Senators Abdallah, Bogue, Brown, de Hueck, Diedrich (Larry), Duniphan, and Schoenbeck

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding threats upon law
2 enforcement officers and their families.

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

4 Section 1. That § 22-11-15.1 be amended to read as follows:

5 22-11-15.1. Any person who knowingly and intentionally deposits for conveyance in the
6 mail or for a delivery from any post office or by any messenger, any letter, paper, writing, print,
7 or document containing any threat to take the life of or to inflict serious bodily harm upon a law
8 enforcement officer of the state or a member of ~~his~~ the officer's immediate family is guilty of
9 a Class 5 felony. However, if any such threat is made which otherwise would constitute a
10 violation of § 22-11-4 or 22-18-1.1, the provisions of such sections ~~shall be~~ are controlling and
11 the penalties provided ~~therein shall~~ in § 22-11-4 or 22-18-1.1 apply.

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

14 Any person who knowingly and intentionally communicates any threat not subject to § 22-



1 11-15.1 to take the life of or to inflict serious bodily harm upon a law enforcement officer of the
2 state or a member of the officer's immediate family, is guilty of a Class 1 misdemeanor.
3 However, if any such threat is made which otherwise would constitute a violation of § 22-11-4
4 or 22-18-1.1, the provisions of such sections are controlling and the penalties provided in § 22-
5 11-4 or 22-18-1.1 apply.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

480J0658

HOUSE EDUCATION COMMITTEE ENGROSSED NO. **HB 1221** - 02/03/2004

Introduced by: Representative Wick and Senator Kelly

1 FOR AN ACT ENTITLED, An Act to require certain publishers to provide electronic versions
2 of textbooks suitable for conversion into Braille.

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

4 Section 1. Upon request, a publisher of a textbook that is adopted for instructional use by
5 a school district shall furnish the South Dakota State Library with an electronic version of the
6 textbook if the textbook is for a literary subject; or, if the textbook is for a nonliterary subject,
7 such as natural sciences, computer science, mathematics, or music, an electronic version shall
8 be furnished if the technology is available to convert the textbook directly to a format
9 compatible with Braille translation software. The publisher shall provide the electronic file to
10 the requesting agency within sixty days of receiving written notice that the file is needed. The
11 cost of the electronic publisher's file may not exceed the cost of a print copy of the same title.
12 Legacy materials are exempt from the requirements of this section. For purposes of this section,
13 the term, legacy, means images and graphics requiring release and permission from another
14 source other than the publisher. The Department of Education shall oversee the process
15 established in this section to ensure that the textbooks and electronic files arrive by the start of



1 the school year.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

185J0008

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1222** - 01/30/2004

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

1 FOR AN ACT ENTITLED, An Act to designate the seventeenth day of April as Joe Foss Day.

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

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

5 The seventeenth day of April, to be known as Joe Foss Day, shall be observed in this state
6 as a working holiday. Joe Foss Day is dedicated to the remembrance and recognition of South
7 Dakota's favorite son and war hero, Governor Joe Foss.



State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

437J0607

HOUSE TRANSPORTATION COMMITTEE

ENGROSSED NO. **HB 1295** - 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 Bradford, Engels, Valandra, and Van Norman and Senator Kloucek

1 FOR AN ACT ENTITLED, An Act to revise certain enforcement procedures regarding the
2 prohibition on certain objects dangling between a motor vehicle driver and the vehicle's
3 windshield.

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

5 Section 1. That § 32-15-6 be amended to read as follows:

6 32-15-6. It is a petty offense for any person to drive any vehicle upon a highway with any
7 object or gadget dangling between the view of the driver and the windshield of the vehicle.

8 Enforcement of this section by state or local law enforcement agencies shall be accomplished
9 as a secondary enforcement.

