



# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

400J0420

HOUSE APPROPRIATIONS COMMITTEE ENGROSSED

NO. **HB 1068** - 02/09/2004

Introduced by: The Committee on Appropriations at the request of the Bureau of Administration

1 FOR AN ACT ENTITLED, An Act to establish a fund for the payment of extraordinary  
2 litigation expenses, to make an appropriation therefor, and to declare an emergency.

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

4 Section 1. There is established in the state treasury the extraordinary litigation fund. The  
5 fund shall be maintained separately and administered by the Bureau of Administration. The fund  
6 may be used for plaintiff attorney fee awards, retention of outside counsel, or other  
7 extraordinary litigation expenses not otherwise eligible to be paid under § 3-22-1. Unexpended  
8 money and any interest that may be credited to the fund shall remain in the fund. The  
9 extraordinary litigation fund is hereby continuously appropriated and shall be budgeted through  
10 the informational budget process. The creation and funding of this fund does not constitute a  
11 waiver of the state's sovereign immunity.

12 Section 2. There is hereby appropriated from the general fund the sum of one million six  
13 hundred fifty thousand dollars (\$1,650,000) to the extraordinary litigation fund for payment of  
14 eligible expenses.

15 Section 3. The commissioner of the Bureau of Administration shall approve vouchers for



1 payment of extraordinary expenses and the state auditor shall draw warrants to pay expenditures  
2 authorized by this Act.

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

# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

455J0396

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1074** - 01/23/2004

Introduced by: The Committee on State Affairs at the request of the Public Utilities  
Commission

1 FOR AN ACT ENTITLED, An Act to prohibit the providing of false or misleading information  
2 to the Public Utilities Commission and to provide a penalty therefor.

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

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

6 No person may knowingly provide false or misleading information to the commission in  
7 response to, or in compliance with, any statute, order, tariff, rule, direction, demand, or  
8 requirement of the commission. A violation of this section is a Class 1 misdemeanor. Each  
9 separate act of providing false or misleading information pursuant to this section constitutes a  
10 separate offense. This penalty is in addition to any other authorized penalties.



# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

165J0147

## HOUSE ENGROSSED NO. **HB 1090** - 01/28/2004

Introduced by: Representatives Wick, Adelstein, Buckingham, Burg, Cutler, Fryslie, Novstrup, Peterson (Bill), Peterson (Jim), Schafer, Valandra, and Weems and Senators Schoenbeck, Albers, Apa, Brown, Dennert, Diedrich (Larry), and Moore

1 FOR AN ACT ENTITLED, An Act to provide for the payment of the difference in salary for  
2 certain state employees who are called into active federal military service and to declare an  
3 emergency.

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

5 Section 1. Any employee of the State of South Dakota who, as a member of the South  
6 Dakota National Guard or any other reserve component of the armed forces of the United States,  
7 is ordered into Title 10 and Title 32 service, after January 1, 2002, other than for training  
8 purposes, shall receive the difference between the employee's state salary or wage rate at the  
9 time the employee was activated and the employee's military salary and allowances for the time  
10 the employee is engaged in such active federal service. The salary or wage difference shall be  
11 paid on at least a quarterly basis.

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



# 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

707J0571

HOUSE APPROPRIATIONS COMMITTEE ENGROSSED

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

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

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

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

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



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

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

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

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

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

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

1 deemed appropriated to this construction.

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

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

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

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

# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

381J0464

SENATE APPROPRIATIONS COMMITTEE  
ENGROSSED NO. **HB 1175** - 02/13/2004

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

1 FOR AN ACT ENTITLED, An Act to establish the brownfields revitalization and economic  
2 development program and to provide for the continuous appropriation of certain federal  
3 funds.

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

5 Section 1. That chapter 46A-1 be amended by adding thereto a NEW SECTION to read as  
6 follows:

7 Terms used in this Act mean:

8 (1) "Brownfields revitalization and economic development program," a program to  
9 provide funding to assist in the assessment, cleanup, and redevelopment of  
10 brownfields sites;

11 (2) "Brownfields site," real property, the expansion, redevelopment, economic  
12 development, or reuse of which may be complicated by the presence or potential  
13 presence of a hazardous substance, pollutant, or contaminant;

14 (3) "Petroleum," petroleum substances, oil, gasoline, kerosene, fuel oil, oil sludge, oil  
15 refuse, oil mixed with other wastes, crude oils, substances, or additives to be utilized



1 in the refining or blending of crude petroleum or petroleum stock, and any other oil  
2 or petroleum substance;

3 (4) "Petroleum contaminated site," a site contaminated by petroleum; and

4 (5) "Real property," residential, commercial, or industrial properties.

5 Section 2. That chapter 46A-1 be amended by adding thereto a NEW SECTION to read as  
6 follows:

7 The state brownfields revitalization and economic development program is hereby  
8 established. A brownfields revolving loan subfund and a brownfields assessment and cleanup  
9 subfund are created within the water and environment fund established pursuant to § 46A-1-60.  
10 The subfunds shall be maintained separately; and all money for use in the program shall be  
11 deposited into the subfunds, including the nonadministrative portion of all federal brownfields  
12 revitalization program grants, all repayments of assistance awarded from the subfunds, interest  
13 on investments made on money in the subfunds, proceeds of discretionary bond issues allowed  
14 by § 46A-1-31, and principal and interest on loans made from the subfunds. Money in the  
15 subfunds may be used only for purposes authorized under federal law. The subfunds may be  
16 pledged or assigned by the district to or in trust for the holders of the bonds of the district and  
17 may be transferred to and held by a trustee or trustees pursuant to § 46A-1-39.

18 Section 3. That chapter 46A-1 be amended by adding thereto a NEW SECTION to read as  
19 follows:

20 Money from the brownfields revitalization and economic development program subfunds  
21 shall be disbursed and administered according to rules promulgated by the Board of Water and  
22 Natural Resources pursuant to chapter 1-26, § 46A-1-65, and the provisions of this Act. The  
23 provisions of §§ 46A-1-61 to 46A-1-69, inclusive, do not apply to the brownfields  
24 revitalization and economic development program subfunds of the water and environment fund

1 or grants and loans from the subfunds made under the brownfields revitalization and economic  
2 development program described in sections 2 to 5 of this Act, inclusive.

3 Section 4. That chapter 46A-1 be amended by adding thereto a NEW SECTION to read as  
4 follows:

5 The Board of Water and Natural Resources shall promulgate rules pursuant to chapter 1-26  
6 to implement the provisions of this Act consistent with the requirements of federal law in order  
7 for an approved brownfields revitalization and economic development program to become  
8 eligible for grant funds from the United States Environmental Protection Agency. The rules  
9 shall include criteria and procedures for the selection of projects to receive funds from the  
10 brownfields revitalization and economic development program and for the administration of  
11 the program including the terms of settlement for program participants pursuant to § 34A-10-17.

12 Section 5. That chapter 46A-1 be amended by adding thereto a NEW SECTION to read as  
13 follows:

14 The brownfields revitalization and economic development program subfunds are hereby  
15 continuously appropriated to the South Dakota Board of Water and Natural Resources. Money  
16 received for these programs may be used only for purposes authorized by the federal Small  
17 Business Liability Relief and Brownfields Revitalization Act (P.L. 107-118) as amended to  
18 January 1, 2004.

19 Section 6. That chapter 46A-1 be amended by adding thereto a NEW SECTION to read as  
20 follows:

21 Any eligible entity may establish a brownfields program to prevent, assess, safely clean up,  
22 promote the economic development of, and sustainably reuse eligible brownfields sites as  
23 authorized in the Comprehensive Environmental Response, Compensation, and Liability Act  
24 of 1980, as amended to January 1, 2004, and in the Small Business Liability Relief and

1 Brownfields Revitalization Act, P.L. 107-118 as amended to January 1, 2004.

2 Section 7. That chapter 46A-1 be amended by adding thereto a NEW SECTION to read as  
3 follows:

4 Any eligible entity establishing a brownfields program may exercise all powers necessary  
5 or appropriate to carry out the purposes of this Act, including the following:

- 6 (1) To acquire by lease, purchase, gift, or other lawful means and hold in its corporate  
7 name or use and control as provided by law both real and personal property and  
8 easements and rights-of-way within or without the corporate limits for all purposes  
9 authorized by this Act or necessary to the exercise of any power granted in this Act;
- 10 (2) To convey, sell, give, dispose of, or lease both the personal and real property of the  
11 municipality or county as provided by this Act;
- 12 (3) To borrow money and to issue certificates, warrants, general obligation bonds and  
13 non-ad valorem tax bonds for purposes of this Act;
- 14 (4) To accept funds, property, and services or other assistance, financial or otherwise,  
15 from federal, state, and other public and private sources to carry out the purposes of  
16 this Act;
- 17 (5) To contract or cooperate with any person, the state, or any political subdivision of the  
18 state, any federal agency, or any private or public entity to carry out the purposes of  
19 this Act;
- 20 (6) To plan, develop, construct, acquire, operate, clean, maintain, repair, alter, renovate,  
21 salvage, demolish, secure, abandon, consolidate, reclaim, or gather data and  
22 information concerning any brownfields site, or any related development, structure,  
23 or facility necessary to carry out the purposes of this Act;
- 24 (7) To apply for available grant funds and other governmental and nongovernmental

1 financing options to promote the cleanup, reuse, revitalization, and economic  
2 development of the property consistent with the purposes of this Act; and  
3 (8) To do and perform all acts authorized in this Act and all other acts necessary and  
4 proper for carrying out and exercising the powers granted by this Act.

# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

348J0574

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB 1183** - 02/05/2004

Introduced by: Representatives Novstrup, Kraus, LaRue, McCaulley, Rhoden, and Weems  
and Senator Sutton (Duane)

1 FOR AN ACT ENTITLED, An Act to provide the temporary replacement of any elected official  
2 incapacitated by illness or accident.

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

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

6 If any member of a governing body of a county, municipality, school district, township, or  
7 special purpose district, who is incapacitated by illness or an accident which causes the member  
8 to be unable to attend meetings of the governing body, the member may elect to temporarily  
9 resign from the governing body. Notice of temporary resignation may be given in the same  
10 manner as giving notice of resignation from such governing body. If the member is unable to  
11 give notice, the member's spouse or guardian or any person who has durable power of attorney  
12 for the member may give notice of resignation from such governing body. A temporary  
13 replacement may be made in accordance with the provisions of statute applying to the governing  
14 body. The temporary member shall serve until the member is able to fulfill the requirements of  
15 office or until the expiration of the member's term, whichever occurs first.



# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

490J0422

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

**HB 1184** - 02/06/2004

Introduced by: Representatives Novstrup, Elliott, Hackl, Kraus, LaRue, McCaulley, Rhoden,  
and Weems and Senators Dennert and Kelly

1 FOR AN ACT ENTITLED, An Act to authorize a payor to make a deduction for transmitting  
2 an amount of an obligor's income pursuant to a child support order for withholding.

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

4 Section 1. That § 25-7A-34 be amended to read as follows:

5 25-7A-34. Any payor who has been served with an order for withholding of income shall  
6 deduct and pay over income or assets as provided in this section. The payor shall deduct the  
7 amount designated in the order for withholding. The first payment shall be deducted from the  
8 payment of income which is payable to the obligor following service of the order. The payor  
9 shall transmit the amount withheld to the department in accordance with the order for  
10 withholding within seven business days after the date the obligor is paid or ~~his~~ the obligor's  
11 property withheld and in accordance with any subsequent notification received from the  
12 department redirecting payment. In addition to the amount designated in the order for  
13 withholding, the payor may deduct an amount not to exceed three dollars per month from the  
14 obligor's income to cover the expenses involved in transmitting the amount withheld.



# 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

457J0098

## HOUSE ENGROSSED NO. **HB 1201** - 02/05/2004

Introduced by: Representatives Williamson and Murschel and Senator Kelly

1 FOR AN ACT ENTITLED, An Act to authorize the issuance of revenue bonds to finance  
2 certain water pipelines or aqueducts.

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

4 Section 1. That § 46A-1-72 be amended to read as follows:

5 46A-1-72. Construction of a ~~West River pipeline or aqueduct from the Oahe~~ a mainstream  
6 Missouri reservoir, the Missouri River itself, or adjacent aquifers ~~to the border with Wyoming~~  
7 one or more communities in South Dakota is hereby authorized for a main delivery pipeline  
8 capable of delivering ~~approximately twenty-seven thousand acre-feet of water per year with up~~  
9 ~~to approximately seven thousand acre-feet to be available for use in western South Dakota and~~  
10 ~~the balance into Wyoming~~ water sufficient to supply or supplement the needs of the  
11 communities and other private or commercial users purchasing water from the communities.

12 Section 2. That § 46A-1-73 be amended to read as follows:

13 46A-1-73. The South Dakota Conservancy District is hereby authorized to issue bonds for  
14 ~~the West River aqueduct pipelines or aqueducts pursuant to section 1 of this Act~~ in an amount  
15 not to exceed ~~three hundred fifty~~ five hundred million dollars. ~~However, no single pipeline or~~  
16 aqueduct project may exceed an amount of seventy-five million dollars. The district may enter



1 into a financing agreement to loan the proceeds of the bonds as authorized by law. The financing  
2 agreement shall provide for repayment of the loan through payments sufficient to pay the  
3 principal of, premium, if any, and interest on the bonds. The loan shall be secured by ~~take or pay~~  
4 contracts for the ~~transportation of coal~~ delivery and sale of water and such additional security  
5 as is necessary for repayment and to market the bonds. The bonds ~~shall do~~ not constitute an  
6 indebtedness of the state and ~~shall do~~ not constitute nor give rise to a pecuniary or moral liability  
7 of the state or a charge against its general credit or taxing powers. No tax revenues of the state,  
8 its people, or any of its political subdivisions ~~shall may~~ be in any manner obligated to pay for  
9 any portion of the construction or financing of the ~~West River pipeline or~~ aqueduct.

10 Section 3. That § 46A-1-74 be repealed.

11 ~~46A-1-74. The South Dakota Conservancy District is hereby authorized to contract, without~~  
12 ~~using state tax revenues, for an independent market study to determine the demand for water~~  
13 ~~from the West River Aqueduct.~~

# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

761J0587

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1202** - 02/13/2004

Introduced by: Representatives Peterson (Bill) and Olson (Mel) and Senators Brown, Bogue, Ham-Burr, and Moore

1 FOR AN ACT ENTITLED, An Act to create a task force to study state and local government.

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

3 Section 1. There is hereby created a task force to study the roles of state and local  
4 government in the state. The task force shall review the responsibilities assigned by the  
5 Constitution and state law to state, county, and municipal governments and to school districts.  
6 The task force shall review the functions that have been implemented by these entities of  
7 government to fulfill their assigned responsibilities. The task force shall review the funding  
8 sources that are available to each of these entities to perform their assigned responsibilities. The  
9 task force shall identify any unfunded mandates that have been place on any of these entities and  
10 shall explore options to provide for the funding of the mandates or for the elimination of the  
11 mandates. The task force shall explore areas where intergovernmental cooperation may be  
12 fostered in the future. The task force shall explore areas where governmental responsibilities  
13 may be revised to improve the services provided by state and local governments to the citizens  
14 of the state.

15 Section 2. The state and local government task force shall consist of twenty-two members.



1 The Governor shall appoint the following members:

2 (1) Three representing county government, no more than two of whom may be from one  
3 political party;

4 (2) Three representing municipal government, no more than two of whom may be from  
5 one political party;

6 (3) Three representing school districts, no more than two of whom may be from one  
7 political party;

8 (4) Three faculty members of a university or college political science department, no  
9 more than two of whom may be from one political party; and

10 (5) Six members of the general public, no more than four of whom may be from one  
11 political party.

12 In addition, the president pro tempore of the Senate shall appoint two members of the  
13 Senate, one from each party; and the speaker of the House of Representatives shall appoint two  
14 members of the House of Representatives, one from each party. The Governor shall select the  
15 chair of the task force.

16 Section 3. The task force shall meet in 2004 and 2005. The task force may hold meetings  
17 and hearings at times and places as it may designate. The task force shall report its findings and  
18 recommendations to the Legislature at its regular session in 2006.

19 Section 4. The Legislative Research Council shall serve as staff to the task force.

20 Section 5. The members of the task force shall be compensated in the same manner as  
21 members of an interim committee.

# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

177J0117

HOUSE TRANSPORTATION COMMITTEE

ENGROSSED NO. **HB 1248** - 02/07/2004

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

Introduced by: Representatives Rounds, Olson (Ryan), and Pederson (Gordon) and Senators de Hueck and Koskan

1 FOR AN ACT ENTITLED, An Act to permit counties, in the absence of an organized township,  
2 to maintain, and improve certain public rights-of-way.

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

4 Section 1. That § 31-13-51 be amended to read as follows:

5 31-13-51. The township board of supervisors or, in the case of any township which is no  
6 longer organized, the board of county commissioners, prior to the assessment of real property  
7 within the township for the next fiscal year, may levy annually for the purpose of maintaining  
8 or repairing street surfaces, whether of a permanent type or not, a special front foot assessment  
9 not to exceed eighty cents per front foot upon the real property fronting and abutting the  
10 roadway. Such assessment shall be apportioned on a front foot basis and shall be levied pursuant  
11 to § 31-13-52.



# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

708J0728

HOUSE TAXATION COMMITTEE ENGROSSED NO.

**HB 1281** - 02/10/2004

Introduced by: Representative Cradduck and Senator Jaspers

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

555J0505

HOUSE TAXATION COMMITTEE ENGROSSED NO.

**HB 1283** - 02/10/2004

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

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

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

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

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

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

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



1 from the tax imposed by chapter 10-46.

# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

615J0689

HOUSE AGRICULTURE AND NATURAL RESOURCES

COMMITTEE ENGROSSED NO. **HB 1300** -

02/10/2004

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

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

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

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

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



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

# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

447J0247

## HOUSE ENGROSSED NO. **SB 13** - 02/17/2004

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

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

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

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

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

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

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

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

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



1           12-26-8. A person who votes more than once at any election or who offers to vote after  
2   having once voted, either in the same or in another election precinct in South Dakota or  
3   elsewhere, is guilty of a ~~Class 1 misdemeanor~~ Class 6 felony.

# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

447J0252

## HOUSE ENGROSSED NO. **SB 15** - 02/17/2004

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

5 Section 5. That chapter 12-18 be amended by adding thereto a NEW SECTION to read as  
6 follows:

7 Before serving as a poll watcher on election day, each poll watcher shall sign under oath an  
8 affidavit in the following form:

9 I, \_\_\_\_\_, do solemnly swear (or affirm) that I will serve as a poll watcher according  
10 to law and the best of my ability and that I will observe the election and not interfere with voters  
11 in the act of voting or with the official actions of the precinct election board.

12 The affidavit shall include the poll watcher's current address and, if different, the poll  
13 watcher's registered voting address. Any member of the precinct election board may administer  
14 the oath and shall require each poll watcher to sign the affidavit in the member's presence.

# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

400J0328

HOUSE TRANSPORTATION COMMITTEE

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

463J0533

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

**SB 77 - 02/09/2004**

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

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

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

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

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



# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

394J0546

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

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

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

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

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

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



# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

922J0570

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

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

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

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

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

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



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

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

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

# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

636J0727

## HOUSE TAXATION COMMITTEE ENGROSSED NO. **SB 172** - 02/12/2004

Introduced by: Senator Olson (Ed) and Representatives Olson (Mel) and Sebert

1 FOR AN ACT ENTITLED, An Act to revise the conditions for increasing the property tax levy  
2 in certain unorganized townships.

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

4 Section 1. That § 10-13-35 be amended to read as follows:

5 10-13-35. This section does not apply to school districts. For taxes payable in 1997, and  
6 each year thereafter, the total amount of revenue payable from taxes on real property within a  
7 taxing district, excluding the levy pursuant to § 10-13-36, may increase no more than the lesser  
8 of three percent or the index factor, as defined in § 10-13-38, over the amount of revenue  
9 payable from taxes on real property in the preceding year, excluding the amount of taxes levied  
10 pursuant to § 10-13-36. After applying the index factor, a taxing district may increase the  
11 revenue payable from taxes on real property above the limitations provided by this section by  
12 the percentage increase of value resulting from any improvements or change in use of real  
13 property, annexation, minor boundary changes, and any adjustments in taxation of property  
14 separately classified and subject to statutory adjustments and reductions under chapters 10-4,  
15 10-6, 10-6A, and 10-6B, except § 10-6-31.4, only if assessed the same as property of equal



1 value. A taxing district may increase the revenue it receives from taxes on real property above  
2 the limit provided by this section for taxes levied to pay the principal, interest, and redemption  
3 charges on any bonds issued after January 1, 1997, which are subject to referendum, scheduled  
4 payment increases on bonds and for a levy directed by the order of a court for the purpose of  
5 paying a judgment against such taxing district. Any taxing district created after the effective date  
6 of this section is exempt from the limitation provided by this section for a period of two years  
7 immediately following its creation. ~~If a township is abolished pursuant to § 8-1-23, the newly~~  
8 ~~unorganized area of the county not included in any municipality, organized civil township, or~~  
9 ~~county road district organized pursuant to chapter 31-12A is considered a new taxing district~~  
10 ~~for the purpose of allowing the county to levy taxes on real property for maintaining secondary~~  
11 ~~roads in such area as required by § 31-12-26 and providing fire protection authorized by chapter~~  
12 ~~8-2.~~

13 Section 2. That chapter 10-13 be amended by adding thereto a NEW SECTION to read as  
14 follows:

15 If a township is abolished pursuant to § 8-1-23 and there was previously no unorganized  
16 territory in the county, the county levy for maintaining secondary roads in such area as required  
17 by § 31-12-26 and providing fire protection pursuant to chapter 8-2 are exempt from the  
18 limitation provided by § 10-13-35 for a period of two years immediately following the  
19 township's abolishment.

20 Section 3. That chapter 10-13 be amended by adding thereto a NEW SECTION to read as  
21 follows:

22 Any county which prior to January 1, 1996, contained no unorganized territory and as of  
23 July 1, 2004, contains unorganized territory as a result of the dissolution of one or more  
24 townships pursuant to § 8-1-23, is, for such unorganized territory and taxes payable in 2005 and

1 2006, exempt from the tax limitation imposed by § 10-13-35 for the purpose of establishing an  
2 appropriate levy for secondary roads pursuant to § 31-12-26 and for fire protection pursuant to  
3 chapter 8-2.