

State of South Dakota

EIGHTIETH SESSION
LEGISLATIVE ASSEMBLY, 2005

471L0429

SENATE BILL NO. 181

Introduced by: Senators Lintz, Duenwald, Hanson (Gary), Hundstad, McNenny, Moore, Napoli, and Peterson (Jim) and Representatives Pederson (Gordon), Brunner, Hargens, Howie, and McCoy

1 FOR AN ACT ENTITLED, An Act to establish requirements and policies for the management
2 and conservation of prairie dogs in national grasslands areas.

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

4 Section 1. The South Dakota Legislature finds:

- 5 (1) The expansion of prairie dog colonies from national grasslands areas onto adjacent
6 private, state, and tribal land is environmentally, culturally, and economically
7 destructive to the regions of the state situated near the national grasslands;
- 8 (2) The expansion of prairie dogs onto private, state, and tribal lands from national
9 grasslands areas constitutes a public nuisance pursuant to § 34A-8A-5;
- 10 (3) The Nebraska National Forest Final Environmental Impact Statement and Land and
11 Resource Management Plan Record of Decision (ROD) of July 2002, does not
12 provide for the control of the prairie dog population on national grasslands areas
13 adjacent to private, state, and tribal land;
- 14 (4) The Nebraska National Forest ROD states: "So as to not place a disproportionate
15 share of prairie dogs on national forest system lands, I will work with the states of



1 Nebraska and South Dakota in the preparation of the statewide prairie dog
2 conservation plans, pursuant to 36 CFR 219.7. I intend to implement the statewide
3 conservation plans for Nebraska and South Dakota to the extent allowable by law and
4 policy in providing direction for the control of unwanted colonization of the prairie
5 dog onto private lands. Should the statewide conservation plans conflict with
6 provisions of this plan, I will propose an amendment to make the plan consistent with
7 those plans. Thus the Nebraska National Forest will continue to provide the goods
8 and services needed by our society from which local businesses can continue to
9 prosper.";

10 (5) The United States Forest Service has invited the State of South Dakota to promulgate
11 a good neighbor policy and plan for the protection of private, state, and tribal lands
12 adjacent to national grasslands areas;

13 (6) A good neighbor does not cause damage to a neighbor's property;

14 (7) The National Forest Management Act, 16 USC 1604, as amended to January 1, 2005,
15 directs the United States secretary of agriculture to develop, maintain, and, as
16 appropriate, revise land and resource management plans for units of the National
17 Forest System, coordinated with the land and resource management planning
18 processes of state and local governments and other federal agencies;

19 (8) The State of South Dakota, by virtue of its authority for the management of wildlife
20 within the state and the invitation of the United States Forest Service to promulgate
21 a good neighbor policy and plan, has both a responsibility and an opportunity to be
22 a leader in ensuring that national grasslands areas in South Dakota will continue to
23 be managed in an environmentally and economically productive manner;

24 (9) A part of this responsibility is to provide a means whereby the prairie dog population

1 is conserved in a manner that protects the environment, watersheds, range, economy,
2 and the health of the prairie dog population by preventing the spread of the sylvatic
3 plague and providing an adequate forage supply for the health and well-being of the
4 prairie dog population;

5 (10) The United States Forest Service has stated its policy and intention to conduct its
6 operations as a good neighbor. A good neighbor does not damage a neighbor's
7 property, and if damages occur, a good neighbor accepts financial liability for the
8 damages the good neighbor causes. As a good neighbor, the United States Forest
9 Service should not use Conservation Practice monies traditionally available for other
10 Conservation Practices.

11 For the reasons enumerated in this section, the Legislature finds that the requirements and
12 policies established in the provisions of this Act for the management and conservation of prairie
13 dogs on national grasslands areas are warranted and justified.

14 Section 2. For purposes of this Act, the term, disproportionate share of prairie dog acres,
15 means any occupied acreage of prairie dogs on national grasslands areas in a given county that
16 exceeds three percent of the aggregate total acreage of national grasslands areas in the county.

17 Section 3. The United States Forest Service may not allow a disproportionate share of prairie
18 dog acres on national grasslands areas in any county.

19 Section 4. If a disproportionate share of prairie dog acres occurs on national grasslands areas
20 in any county, the United States Forest Service shall, within the calendar year that the
21 disproportionate share of prairie dogs occurs, reduce the prairie dog acreage on national
22 grasslands areas in the county by any legal means necessary, including the use of rodenticides,
23 to an acreage equal to one percent of the aggregate national grasslands acreage in the county.

24 Section 5. The United States Forest Service's good neighbor policy described in section 1

1 of this Act shall include a prairie dog free one-mile buffer zone adjacent to all private, state, and
2 tribal property.

3 Section 6. If prairie dogs are detected within any prairie dog free one-mile buffer zone, the
4 United States Forest Service shall eliminate the prairie dogs from the buffer zone by any legal
5 means necessary, including the use of rodenticides, within the calendar year or within thirty days
6 of detection. Any adjacent landowner or any government entity detecting prairie dogs within the
7 one-mile buffer zone shall give the United States Forest Service written notification by certified
8 or registered mail.

9 Section 7. The United States Forest Service shall maintain a minimum range condition on
10 prairie dog towns throughout the national grasslands. The minimum ecological site similarity
11 index/range condition may not degrade below a similarity index percentage/range condition of
12 twenty-five to fifty percent, as described in the Natural Resources Conservation Service South
13 Dakota State Technical Guide, as amended to January 1, 2005.