



# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

400M0338      **SENATE AGRICULTURE AND NATURAL RESOURCES**  
**COMMITTEE ENGROSSED NO. HB 1029 -**  
**02/02/2006**

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

1    FOR AN ACT ENTITLED, An Act to prohibit the use of crossbows for fishing unless an  
2        exception is granted in rules promulgated by the Game, Fish and Parks Commission.

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

4        Section 1. That § 41-12-12 be amended to read as follows:

5        41-12-12. ~~Spears, spear guns, bows and arrows, snaghooks, setlines, hoop nets, traps,~~  
6    ~~artificial lights, and other devices~~ No spear, spear gun, bow and arrow, crossbow, snaghook,  
7    setline, hoop net, trap, artificial light, or other device except hook and line may ~~not~~ be used for  
8    fishing except as expressly provided by ~~Game, Fish and Parks Commission rule~~ rules  
9    promulgated by the Game, Fish and Parks Commission pursuant to chapter 1-26. However,  
10   landing nets, gaffs, and similar devices may be used as an aid in landing fish which are in the  
11   process of being caught by legal methods. ~~A violation of this section~~ Use of a device prohibited  
12   by this section is a Class 2 misdemeanor.



# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

967M0248      **HOUSE APPROPRIATIONS COMMITTEE ENGROSSED**  
**NO. HB 1103 - 02/03/2006**

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

Introduced by: Representatives Haverly, Buckingham, Davis, Faehn, Halverson, Hanks, Howie, Klaudt, Murschel, Peters, Rausch, Roberts, Tidemann, Tornow, Turbiville, Van Etten, and Willadsen and Senators Napoli, Adelstein, Apa, Duniphan, Greenfield, Koetzle, and Two Bulls

1    FOR AN ACT ENTITLED, An Act to appropriate money to postsecondary technical institutes  
2        for the maintenance and repair of buildings.

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

4        Section 1. There is hereby appropriated from the state general fund the sum of three hundred  
5    sixty thousand dollars (\$360,000), or so much thereof as may be necessary, to the Department  
6    of Education for the maintenance and repair of buildings of postsecondary technical institutes.  
7    Moneys may be distributed after the secretary of the Department of Education has received a  
8    schedule of tuition, fees, and other charges from each postsecondary technical institute which  
9    indicates that a maintenance and repair fee of one dollar per credit hour has been imposed.

10       Section 2. The secretary of the Department of Education shall approve vouchers and the  
11    state auditor shall draw warrants to pay expenditures authorized by this Act.

12       Section 3. Any amounts appropriated in this Act not lawfully expended or obligated by  
13    June 30, 2007, shall revert in accordance with § 4-8-21.



# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

547M0547

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

**HB 1132 - 02/06/2006**

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

Introduced by: Representatives Hanks, Boomgarden, Brunner, Buckingham, Davis, Garnos, Glenski, Howie, Kraus, Krebs, McCoy, Novstrup, Rausch, Rhoden, Turbiville, Van Etten, and Weems and Senators Adelstein, Abdallah, Broderick, Koskan, McCracken, and Schoenbeck

1 FOR AN ACT ENTITLED, An Act to create immunity for reporting prenatal alcohol or  
2 substance abuse.

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

4 Section 1. That chapter 34-23B be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 Any physician, physician's assistant, nurse, nurse practitioner, nurse midwife, counselor,  
7 social worker, licensed or registered child welfare provider, employee or volunteer of a domestic  
8 abuse center, chemical dependency counselor, or safety sensitive position as defined in  
9 subdivision 23-3-64(2) who provides services to a pregnant woman may make a referral to a  
10 prevention or treatment program accredited pursuant to chapter 34-20A if the provider has  
11 information that a pregnant woman is engaging in the abusive use of alcohol or use of any  
12 controlled drug or substance not lawfully prescribed by a practitioner as authorized by chapter  
13 22-42 or 34-20B. Any such provider, who, in good faith, makes a referral to a prevention or



1 treatment program accredited pursuant to chapter 34-20A of a pregnant woman engaging in  
2 abusive use of alcohol, abusive use of a lawfully prescribed controlled substance, or use of any  
3 controlled drug or substance not lawfully prescribed by a practitioner as authorized by chapter  
4 22-42 or 34-20B, is immune from any liability, civil or criminal, that might otherwise be  
5 incurred or imposed, and has the same immunity with respect to participation in any judicial  
6 proceeding resulting from the referral. This immunity also extends to any public official  
7 involved in the investigation of such conduct or to any person described in this section who in  
8 good faith cooperates with any public official in an investigation. Any referral pursuant to this  
9 section is permissive and nothing in this section requires the making of any referral.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

295M0441

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

**HB 1149** - 02/06/2006

Introduced by: Representatives O'Brien, Cutler, Faehn, Garnos, Gillespie, Haley, Hargens, Haverly, Hennies, Hunhoff, Jensen, Murschel, Nelson, Rausch, Rave, Roberts, Rounds, and Tidemann and Senators Bogue, Abdallah, Dempster, Duenwald, Hansen (Tom), Knudson, Moore, Olson (Ed), and Schoenbeck

1 FOR AN ACT ENTITLED, An Act to revise certain felony and misdemeanor provisions not  
2 located in the criminal code.

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

4 Section 1. That § 1-1-11 be repealed.

5 ~~—1-1-11. No armed body of police or detectives, or armed body of persons other than United~~  
6 ~~States troops, shall be brought into this state for the suppression of violence, except upon the~~  
7 ~~application of the Legislature if in session, or the Governor, if the Legislature is not in session.~~  
8 ~~A violation of this section is a Class 6 felony.~~

9 Section 2. That § 2-4-6 be amended to read as follows:

10 2-4-6. Every person who intentionally and, by force or fraud, prevents the Legislature of this  
11 state or either of the branches composing it, or any of the members thereof, from meeting or  
12 organizing, is guilty of a Class 4 felony.

13 Section 3. That § 2-4-8 be amended to read as follows:

14 2-4-8. Every person who intentionally and, by force or fraud, compels or attempts to compel



1 the Legislature of this state, or either of the branches composing it, to adjourn or disperse, is  
2 guilty of a Class 4 felony.

3 Section 4. That § 2-4-10 be amended to read as follows:

4 2-4-10. Every person who intentionally, by force or fraud, compels or attempts to compel  
5 either branch of the Legislature of this state to pass, amend, or reject any bill or resolution, or  
6 to grant or refuse any petition, or to perform or omit to perform any other official act, is guilty  
7 of a Class 4 felony.

8 Section 5. That § 2-7-21 be amended to read as follows:

9 2-7-21. Any person who fraudulently alters a bill which has been passed by the Legislature  
10 of this state, with intent to have it approved by the Governor, certified by the secretary of state,  
11 or printed or published by the printer of the statutes, in language different from that in which  
12 it was passed by the Legislature, is guilty of a Class 6 felony.

13 Section 6. That § 23A-28B-35 be amended to read as follows:

14 23A-28B-35. No person may submit a fraudulent application or claim for a victims'  
15 compensation award, may intentionally make or cause to be made any false statement or  
16 representation of a material fact in a claim, or may intentionally conceal or fail to disclose  
17 information affecting the amount of or the initial or continued right to any such claim or award  
18 when reasonably requested to provide such information by the department or the commission.

19 Any person who violates the provisions of this section is guilty of a Class 1 misdemeanor  
20 if the application or claim is in an amount of ~~five hundred~~ one thousand dollars or less. Any  
21 person who violates the provisions of this section is guilty of a Class 4 felony if the application  
22 or claim is in an amount exceeding ~~five hundred~~ one thousand dollars.

23 Any person who violates the provisions of this section forfeits any benefit received under  
24 this chapter and shall reimburse the state for any such payments received or paid to or on behalf

1 of that person.

2 The state has a civil cause of action for relief against any person who violates this section  
3 in the amount of damages which the state has sustained as a result of such violation and, in  
4 addition, for punitive damages in an amount not more than double the amount of damages  
5 which the state has sustained, together with interest, plus the cost of such suit.

6 Section 7. That § 24-11-48 be amended to read as follows:

7 24-11-48. No employee or other person may deliver or procure to be delivered, or have in  
8 such person's possession with intent to deliver, to any person incarcerated in a jail or a juvenile  
9 detention facility, or deposit or conceal in or around any jail or in or around a juvenile detention  
10 facility, or in any mode of transport entering the grounds of any jail or juvenile detention facility  
11 and its ancillary facilities used to house inmates or juveniles, any article or thing ~~contrary~~  
12 prohibited pursuant to § 24-11-47 with intent that any inmate obtain or receive the same. A  
13 violation of this section is a Class 6 felony.

14 Section 8. The code counsel shall transfer § 25-5A-7.1 to a newly created chapter in Title  
15 22 entitled "Offenses Against the Family" and shall renumber the section accordingly and adjust  
16 all appropriate cross references.

17 Section 9. That § 25-7-15 be amended to read as follows:

18 25-7-15. The parent of any child under the age of ~~six~~ ten years and any person to whom any  
19 such child has been confided for nurture or education who deserts such child in any place  
20 ~~whatever~~ with intent to wholly to abandon it the child, is guilty of a ~~Class 6~~ Class 4 felony.

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

22 25-10-13. If a temporary protection order or a protection order is granted pursuant to this  
23 chapter or is a foreign protection order pursuant to § 25-10-12.1, and the respondent or person  
24 to be restrained knows of the order, violation of the order is a Class 1 misdemeanor. If any

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

8 Section 11. That § 31-28-23 be amended to read as follows:

9 31-28-23. No person may, without lawful authority, attempt or actually alter, deface, injure,  
10 knock down, remove, or in any manner molest or interfere with any official highway marker,  
11 sign, guide board, traffic-control device, interstate highway gate, or any railroad sign or signal,  
12 barrier, warning device, or sign erected in connection with highway maintenance or construction  
13 activities. A violation of this section is a Class 1 misdemeanor. Any person who violates this  
14 section is responsible for the cost of repairing or replacing such markers, signs, signals, barriers,  
15 or devices.

16 Section 12. That § 33-12-23 be amended to read as follows:

17 33-12-23. ~~Every~~ Any person who enters any fort, magazine, arsenal, armory, arsenal yard,  
18 or encampment, and seizes or takes away any arms, ammunition, military stores, or supplies  
19 belonging to the people of this state, and every person who enters any such place with intent to  
20 do so, is guilty of a ~~Class 4~~ Class 2 felony.

21 Section 13. That § 34-16-2 be amended to read as follows:

22 34-16-2. ~~Every~~ Any person who releases or spreads any disease germs intending thereby to  
23 accomplish the infection of one or more persons or domestic animals is guilty of a ~~Class 4~~ Class  
24 2 felony.

1 Section 14. That § 37-17-1 be amended to read as follows:

2 37-17-1. Any person who knowingly sells or offers for sale any agricultural implement, farm  
3 tractor, or other type of farm machinery or equipment, or radio, piano, phonograph, sewing  
4 machine, washing machine, typewriter, adding machine, comptometer, bicycle, firearm, safe,  
5 vacuum cleaner, dictating machine, tape recorder, watch, watch movement, watch case, or any  
6 mechanical or electrical device, appliance, contrivance, material, piece of apparatus, or  
7 equipment, which is identified by a serial number placed thereon by the manufacturer, the  
8 original serial number of which has been destroyed, removed, altered, covered, or defaced, is  
9 guilty of a Class 2 misdemeanor if the value of the property is ~~two~~ four hundred dollars or less.  
10 If the value of the property is more than ~~two~~ four hundred dollars and less than one thousand  
11 dollars, such person is guilty of a Class 1 misdemeanor. If the value of the property is one  
12 thousand dollars or greater, such person is guilty of a Class 4 felony.

13 Section 15. That § 40-38-4 be amended to read as follows:

14 40-38-4. Any person who violates subdivision 40-38-2(1) or (6) is guilty of a ~~Class 6 felony~~  
15 Class 2 misdemeanor if there is damage of ~~at least five~~ four hundred dollars ~~and a Class 1~~  
16 ~~misdemeanor~~ or less. Any person who violates subdivision 40-38-2(1) or (6) is guilty of a Class  
17 1 misdemeanor if there is damage of an amount greater than four hundred dollars and less than  
18 one thousand dollars. Any person who violates subdivision 40-38-2(1) or (6) is guilty of a Class  
19 4 felony if there is damage of less than five hundred dollars one thousand dollars or greater. Any  
20 person who violates subdivisions 40-38-2(2) to (5), inclusive, is guilty of a ~~Class 6~~ Class 4  
21 felony.

22 Section 16. That § 47-31B-508 be amended to read as follows:

23 47-31B-508. (a) Criminal penalties. It is a ~~class four~~ Class 4 felony for any person that  
24 willfully violates this chapter, or a rule adopted or order issued under this chapter, except § 47-

1 31B-504 or the notice filing requirements of § 47-31B-302 or 47-31B-405, or that willfully  
2 violates § 47-31B-505 knowing the statement made to be false or misleading in a material  
3 respect, ~~upon conviction, shall be fined not more than ten thousand dollars per violation.~~ An  
4 individual convicted of violating a rule or order under this chapter may be fined, but may not  
5 be imprisoned, if the individual did not have knowledge of the rule or order. A subsequent  
6 violation is a Class 3 felony.

7 (b) Criminal reference not required. The Attorney General or the proper prosecuting attorney  
8 with or without a reference from the director, may institute criminal proceedings under this  
9 chapter.

10 (c) No limitation on other criminal enforcement. This chapter does not limit the power of  
11 this state to punish a person for conduct that constitutes a crime under other laws of this state.

12 Section 17. That § 51A-1-10 be amended to read as follows:

13 51A-1-10. It is a Class 4 felony for an officer, director, employee, or agent of a bank:

14 (1) With intent to deceive, to make any false or misleading statement or entry or omit  
15 any statement or entry that should be in any book, account, report, or statement of the  
16 bank; or

17 (2) To obstruct or endeavor to obstruct a lawful examination of the bank by an officer  
18 or employee of the division.

19 Section 18. That § 52-1-12 be amended to read as follows:

20 52-1-12. It is a Class 4 felony for an officer, director, employee or agent of an association:

21 (1) With intent to deceive, to make a false or misleading statement or entry or to omit  
22 any statement or entry that should be made in a book, account report or statement of  
23 the association; or

24 (2) To obstruct a lawful examination of the association by an officer or employee of the

1 Division of Banking.

2 Section 19. That § 58-4A-2 be amended to read as follows:

3 58-4A-2. For purposes of this chapter, a person commits a fraudulent insurance act if the  
4 person:

5 (1) Knowingly and with intent to defraud or deceive issues or possesses fake or  
6 counterfeit insurance policies, certificates of insurance, insurance identification cards,  
7 or insurance binders;

8 (2) Is engaged in the business of insurance, whether authorized or unauthorized, receives  
9 money for the purpose of purchasing insurance and converts the money to the  
10 person's own benefit or for a purpose not intended or authorized by an insured or  
11 prospective insured;

12 (3) Willfully embezzles, abstracts, steals, misappropriates, or converts money, funds,  
13 premiums, credits, or other property of an insurer or person engaged in the business  
14 of insurance or of an insured or prospective insured;

15 (4) Knowingly and with intent to defraud or deceive makes any false entry of a material  
16 fact in or pertaining to any document or statement filed with or required by the  
17 Division of Insurance;

18 (5) Knowingly and with intent to defraud or deceive removes, conceals, alters, diverts,  
19 or destroys assets or records of an insurer or other person engaged in the business of  
20 insurance or attempts to remove, conceal, alter, divert, or destroy assets or records  
21 of an insurer or other person engaged in the business of insurance;

22 (6) Knowingly and with intent to defraud or deceive presents, causes to be presented, or  
23 prepares with knowledge or belief that it will be presented to or by an insurer, or any  
24 insurance producer of an insurer, any statement as part of a claim, in support of a

1 claim, or in denial of a claim for payment or other benefit pursuant to an insurance  
2 policy knowing that the statement contains any false, incomplete, or misleading  
3 information concerning any fact or thing material to a claim;

4 (7) Assists, abets, solicits, or conspires with another to prepare or make any statement  
5 that is intended to be presented to or by an insurer or person in connection with or in  
6 support of any claim for payment or other benefit, or denial, pursuant to an insurance  
7 policy knowing that the statement contains any false, incomplete, or misleading  
8 information concerning any fact or thing material to the claim; or

9 (8) Makes any false or fraudulent representations as to the death or disability of a policy  
10 or certificate holder in any statement or certificate for the purpose of fraudulently  
11 obtaining money or benefit from an insurer.

12 Any violation of this section for an amount of ~~five~~ four hundred dollars or less is a ~~Class 1~~  
13 Class 2 misdemeanor. Any violation of this section for an amount in excess of ~~five~~ four hundred  
14 dollars and less than one thousand dollars is a Class 1 misdemeanor. Any violation of this  
15 section for an amount of one thousand dollars and greater is a Class 4 felony. Any other  
16 violation of this section is a Class 1 misdemeanor.

17 Section 20. That § 58-33-37 be amended to read as follows:

18 58-33-37. Any person who knowingly makes any false or fraudulent statement or  
19 representation with reference to any application for insurance is guilty of a Class 1  
20 misdemeanor. Any person who knowingly presents or causes to be presented a false or  
21 fraudulent claim for the purpose of obtaining any money or benefit, or who submits any proof  
22 in support of such a claim for the payment of a loss upon a contract of insurance, or who  
23 prepares, makes, or subscribes a false or fraudulent account, certificate, affidavit or proof of  
24 loss, or other document or writing, with intent that the same may be presented or used in support

1 of such a claim, is guilty of a ~~Class 1~~ Class 2 misdemeanor if such claim is for an amount of ~~five~~  
2 four hundred dollars or less;; a Class 1 misdemeanor if such claims is for an amount greater than  
3 four hundred dollars and less than one thousand dollars; and ~~is guilty of a Class 4 felony if such~~  
4 claim ~~exceeds five hundred~~ is one thousand dollars or greater.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

497M0157

HOUSE EDUCATION COMMITTEE ENGROSSED NO.

**HB 1160** - 01/31/2006

Introduced by: Representatives Brunner, Elliott, Hackl, Hennies, Hills, Lange, McCoy, Nelson, Novstrup, Rave, Roberts, Schafer, Street, Tornow, and Weems and Senators Kooistra and Nesselhuf

1 FOR AN ACT ENTITLED, An Act to provide additional state funding to school districts that  
2 offer certain services and opportunities to students receiving alternative instruction.

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

4 Section 1. That § 13-13 be amended by adding thereto a NEW SUBDIVISION to read as  
5 follows:

6 In addition to the funds from the foundation program fund distributed to schools according  
7 to the provisions of §§ 13-13-10.1 to 13-13-41, inclusive, a school district is entitled to  
8 additional funds in an amount equal to twenty-five percent of the per student allocation as  
9 defined in subdivision 13-13-10.1(4) for every student who resides in the district and is  
10 receiving alternative instruction as set forth in § 13-27-3. However, a school district may only  
11 receive the funding set forth in this section if the district provides the student with the  
12 opportunity to participate in interscholastic activities pursuant to § 13-36-7 and also makes  
13 available to the student other services provided by the school.

14 In order to receive this funding, a school district shall apply on forms provided by the



1 Department of Education. The Department of Education may promulgate rules pursuant to  
2 chapter 1-26 to establish application procedures, timelines, and procedures for determining  
3 funding eligibility.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

733M0636

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

**HB 1185** - 02/03/2006

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

Introduced by: Representative Rave and Senator Schoenbeck

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding directed trusts to  
2 include custodial accounts.

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

4 Section 1. That § 55-1B-1 be amended to read as follows:

5 55-1B-1. Terms used in this chapter mean:

6 (1) "Instrument," any revocable or irrevocable trust document created inter vivos or  
7 testamentary or any custodial account agreement;

8 (2) "Trust protector," any disinterested third party whose appointment is provided for in  
9 the ~~trust~~ instrument;

10 (3) Repealed by SL 2005, ch 260, § 2.

11 (4) "Fiduciary," a trustee or custodian under any ~~testamentary or other trust~~ instrument,  
12 an executor, administrator, or personal representative of a decedent's estate, or any  
13 other party, including a trust advisor, a trust protector, or a trust committee, who is  
14 acting in a fiduciary capacity for any person, trust, or estate;

15 (5) "Excluded fiduciary," any fiduciary excluded from exercising certain powers under



1 the instrument which powers may be exercised by the grantor, custodial account  
2 owner, trust advisor, trust protector, trust committee, or other persons designated in  
3 the ~~trust~~ instrument;

4 (6) "Investment trust advisor," a fiduciary, given authority by the ~~trust~~ instrument to  
5 exercise all or any portions of the powers and discretions set forth in § 55-1B-10;

6 (7) "Distribution trust advisor," a fiduciary, given authority by the ~~trust~~ instrument to  
7 exercise all or any portions of the powers and discretions set forth in § 55-1B-11;

8 (8) "Custodial account," an account, established by a party with a bank as defined in 26  
9 U.S.C. 408(n), as of January 1, 2006, or with another person approved by the Internal  
10 Revenue Service as satisfying the requirements to be a nonbank trustee or a nonbank  
11 passive trustee set forth in U.S. Treasury Regulations promulgated under 26 U.S.C.  
12 408, that is governed by an instrument concerning the establishment or maintenance,  
13 or both, of an individual retirement account, qualified retirement plan, Archer  
14 medical savings account, health savings account, Coverdell education savings  
15 account, or any similar retirement or savings vehicle permitted under the Internal  
16 Revenue Code of 1986, as of January 1, 2006;

17 (9) "Custodial account owner," any party who establishes a custodial account; or has the  
18 power to designate the beneficiaries or appoint the custodian of the custodial account;  
19 or otherwise is the party who possesses the power to direct the investment,  
20 disposition, or retention of any assets in the custodial account or name an authorized  
21 designee to effect the same.

22 Section 2. That § 55-1B-2 be amended to read as follows:

23 55-1B-2. An excluded fiduciary is not liable, either individually or as a fiduciary, for either  
24 of the following:

1 (1) Any loss that results from compliance with a direction of the trust advisor, custodial  
2 account owner, or authorized designee of a custodial account owner;

3 (2) Any loss that results from a failure to take any action proposed by an excluded  
4 fiduciary that requires a prior authorization of the trust advisor if that excluded  
5 fiduciary timely sought but failed to obtain that authorization.

6 Any excluded fiduciary is also relieved from any obligation to perform investment or  
7 suitability reviews and, inquiries, or investigations or to make recommendations or evaluations  
8 with respect to any investments to the extent the trust advisor, custodial account owner, or  
9 authorized designee of a custodial account owner had authority to direct the acquisition,  
10 disposition, or retention of any such investment.

11 Nothing in subdivision (2) imposes an obligation or liability with respect to a custodian of  
12 a custodial account.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

583M0582

SENATE JUDICIARY COMMITTEE ENGROSSED NO.

**HB 1190** - 02/01/2006

Introduced by: Representatives Hennies, Cutler, Elliott, Frost, Gassman, Hanks, Jerke, Krebs, Kroger, Lange, McLaughlin, Murschel, Novstrup, O'Brien, Rave, Rhoden, Rounds, Sigdestad, and Van Etten and Senators Abdallah, Bartling, Broderick, Duniphan, Earley, Gray, Hansen (Tom), Kelly, Kloucek, Knudson, Koetzle, McCracken, Nesselhuf, Olson (Ed), and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to specifically exclude ridden animals and bicycles from  
2 violations of the DUI statutes.

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

4 Section 1. That chapter 32-23 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 The provisions of this chapter do not apply to any person who is riding:

7 (1) A horse or other animal; and

8 (2) A bicycle, tricycle, or other unpowered foot-pedal conveyance.



# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

625M0529

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

**HB 1218 - 02/06/2006**

Introduced by: Representatives Murschel, Brunner, Cutler, Elliott, Frost, Hennies, Jensen, Kraus, Novstrup, O'Brien, Rave, and Vehle and Senators Sutton (Dan), Abdallah, Dempster, Gant, Gray, and Kooistra

1 FOR AN ACT ENTITLED, An Act to establish a task force to study education for divorcing  
2 parents and visitation and custody matters.

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

4 Section 1. There is established the Task Force to Study Education for Divorcing Parents and  
5 Visitation and Custody Matters. The task force shall consist of sixteen members. Eight members  
6 shall be appointed by the Executive Board of the Legislative Research Council, four members  
7 shall be appointed by the Governor, and four members shall be appointed by the Chief Justice.  
8 Not all members appointed by each appointive power may belong to the same political party.  
9 The initial appointments shall be made no later than sixty days after the effective date of this  
10 Act. If there is a vacancy on the task force, the vacancy shall be filled in the same manner as the  
11 original appointment. The appointments shall include circuit judges, legislators, behavioral  
12 health care experts, divorced parents, divorce mediators, attorneys, and representatives of the  
13 Department of Social Services and the Department of Human Services.

14 Section 2. The task force shall be under the supervision of the Executive Board of the



1 Legislative Research Council and staffed and funded as an interim legislative committee. The  
2 executive board shall appoint the chair and vice chair of the task force who shall be members  
3 of the Legislature.

4 Section 3. The task force shall study South Dakota's delivery of parent education for  
5 divorcing parents with minor children, visitation and custody issues, and shall explore best  
6 practice models of evidence-based curriculums, court-required education, and visitation  
7 referees. The task force shall make recommendations to improve divorce outcomes for children  
8 and families and shall submit its final report to the Governor, Legislature, and Chief Justice no  
9 later than June 30, 2007.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

400M0672      **HOUSE APPROPRIATIONS COMMITTEE ENGROSSED**  
**NO. HB 1237 - 02/03/2006**

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

1    FOR AN ACT ENTITLED, An Act to make an appropriation to fund tax refunds for elderly and  
2        disabled persons and to revise the income eligibility requirements for property tax and sales  
3        tax refunds.

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

5        Section 1. There is hereby appropriated from the state general fund the sum of one million  
6        dollars (\$1,000,000), or so much thereof as may be necessary, to the Department of Revenue  
7        and Regulation to provide refunds for real property tax and sales tax to elderly and disabled  
8        persons pursuant to chapters 10-18A and 10-45A. An amount not to exceed ten thousand dollars  
9        in fiscal year 2007 may be used for the administrative costs of this Act.

10       Section 2. The secretary of revenue and regulation shall approve vouchers and the state  
11       auditor shall draw warrants to pay expenditures authorized by this Act.

12       Section 3. Any amounts appropriated in this Act not lawfully expended or obligated by  
13       June 30, 2007, shall revert in accordance with § 4-8-21.

14       Section 4. That § 10-18A-5 be amended to read as follows:

15       10-18A-5. The amount of refund of real property taxes due or paid for a single-member



1 household made pursuant to this chapter shall be according to the following schedule:

2			The refund of real
3	If household income is		property taxes due
4	more than:	but less than	or paid shall be
5	\$ 0	<del>\$3,500</del> <u>\$3,750</u>	35%
6	<del>3,501</del> <u>3,751</u>	<del>3,760</del> <u>4,010</u>	34%
7	<del>3,761</del> <u>4,011</u>	<del>4,020</del> <u>4,270</u>	33%
8	<del>4,021</del> <u>4,271</u>	<del>4,280</del> <u>4,530</u>	32%
9	<del>4,281</del> <u>4,531</u>	<del>4,540</del> <u>4,790</u>	31%
10	<del>4,541</del> <u>4,791</u>	<del>4,800</del> <u>5,050</u>	30%
11	<del>4,801</del> <u>5,051</u>	<del>5,060</del> <u>5,310</u>	29%
12	<del>5,061</del> <u>5,311</u>	<del>5,320</del> <u>5,570</u>	28%
13	<del>5,321</del> <u>5,571</u>	<del>5,580</del> <u>5,830</u>	27%
14	<del>5,581</del> <u>5,831</u>	<del>5,840</del> <u>6,090</u>	26%
15	<del>5,841</del> <u>6,091</u>	<del>6,100</del> <u>6,350</u>	25%
16	<del>6,101</del> <u>6,351</u>	<del>6,360</del> <u>6,610</u>	24%
17	<del>6,361</del> <u>6,611</u>	<del>6,620</del> <u>6,870</u>	23%
18	<del>6,621</del> <u>6,871</u>	<del>6,880</del> <u>7,130</u>	22%
19	<del>6,881</del> <u>7,131</u>	<del>7,140</del> <u>7,390</u>	21%
20	<del>7,141</del> <u>7,391</u>	<del>7,400</del> <u>7,650</u>	20%
21	<del>7,401</del> <u>7,651</u>	<del>7,660</del> <u>7,910</u>	19%
22	<del>7,661</del> <u>7,911</u>	<del>7,920</del> <u>8,170</u>	18%
23	<del>7,921</del> <u>8,171</u>	<del>8,180</del> <u>8,430</u>	17%
24	<del>8,181</del> <u>8,431</u>	<del>8,440</del> <u>8,690</u>	16%
25	<del>8,441</del> <u>8,691</u>	<del>8,700</del> <u>8,950</u>	15%
26	<del>8,701</del> <u>8,951</u>	<del>8,960</del> <u>9,210</u>	14%
27	<del>8,961</del> <u>9,211</u>	<del>9,220</del> <u>9,470</u>	13%
28	<del>9,221</del> <u>9,471</u>	<del>9,480</del> <u>9,730</u>	12%
29	<del>9,481</del> <u>9,731</u>	<del>9,750</del> <u>10,000</u>	11%

1 over ~~9,750~~ 10,000 No refund

2 Section 5. That § 10-18A-6 be amended to read as follows:

3 10-18A-6. The amount of refund of real property taxes due or paid for a multiple-member  
4 household made pursuant to this chapter shall be according to the following schedule:

5			The refund of real
6	If household income is	property taxes due	
7	more than:	but not more than	or paid shall be
8	\$ 0	<del>\$6,250</del> <u>\$6,500</u>	55%
9	<del>6,251</del> <u>6,501</u>	<del>6,611</del> <u>6,861</u>	53%
10	<del>6,612</del> <u>6,862</u>	<del>6,972</del> <u>7,222</u>	51%
11	<del>6,973</del> <u>7,223</u>	<del>7,333</del> <u>7,583</u>	49%
12	<del>7,334</del> <u>7,584</u>	<del>7,694</del> <u>7,944</u>	47%
13	<del>7,695</del> <u>7,945</u>	<del>8,055</del> <u>8,305</u>	45%
14	<del>8,056</del> <u>8,306</u>	<del>8,416</del> <u>8,666</u>	43%
15	<del>8,417</del> <u>8,667</u>	<del>8,777</del> <u>9,027</u>	41%
16	<del>8,778</del> <u>9,028</u>	<del>9,138</del> <u>9,388</u>	39%
17	<del>9,139</del> <u>9,389</u>	<del>9,499</del> <u>9,749</u>	37%
18	<del>9,500</del> <u>9,750</u>	<del>9,860</del> <u>10,110</u>	35%
19	<del>9,861</del> <u>10,111</u>	<del>10,221</del> <u>10,471</u>	33%
20	<del>10,222</del> <u>10,472</u>	<del>10,582</del> <u>10,832</u>	31%
21	<del>10,583</del> <u>10,833</u>	<del>10,943</del> <u>11,193</u>	29%
22	<del>10,944</del> <u>11,194</u>	<del>11,304</del> <u>11,554</u>	27%
23	<del>11,305</del> <u>11,555</u>	<del>11,665</del> <u>11,915</u>	25%
24	<del>11,666</del> <u>11,916</u>	<del>12,026</del> <u>12,276</u>	23%
25	<del>12,027</del> <u>12,277</u>	<del>12,387</del> <u>12,637</u>	21%
26	<del>12,388</del> <u>12,638</u>	<del>12,750</del> <u>13,000</u>	19%
27	over <del>12,750</del> <u>13,000</u>	No refund	

28 Section 6. That § 10-45A-5 be amended to read as follows:

1        10-45A-5. The amount of any claim made pursuant to this chapter by a claimant from a  
2 household consisting solely of one individual shall be determined as follows:

- 3        (1) If the claimant's income is three thousand ~~five hundred~~ seven hundred fifty dollars  
4 or less, a sum of two hundred fifty-eight dollars;
- 5        (2) If the claimant's income is three thousand ~~five hundred one~~ seven hundred fifty-one  
6 dollars and not more than ~~nine thousand seven hundred fifty~~ ten thousand dollars, a  
7 sum of forty-six dollars plus three and four-tenths percent of the difference between  
8 ~~nine thousand seven hundred fifty~~ ten thousand dollars and the income of the  
9 claimant;
- 10       (3) If the claimant's income is more than ~~nine thousand seven hundred fifty~~ ten thousand  
11 dollars, no refund.

12       Section 7. That § 10-45A-6 be amended to read as follows:

13       10-45A-6. The amount of any claim made pursuant to this chapter by a claimant from a  
14 household consisting of more than one individual shall be determined as follows:

- 15       (1) If household income is six thousand ~~two hundred fifty~~ five hundred dollars or less,  
16 the sum of five hundred eighty-one dollars;
- 17       (2) If household income is six thousand ~~two hundred fifty-one~~ five hundred one dollars  
18 and not more than ~~twelve thousand seven hundred fifty~~ thirteen thousand dollars, a  
19 sum of seventy-four dollars plus seven and eight-tenths percent of the difference  
20 between ~~twelve thousand seven hundred fifty~~ thirteen thousand dollars and total  
21 household income;
- 22       (3) If household income is more than ~~twelve thousand seven hundred fifty~~ thirteen  
23 thousand dollars, no refund.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

664M0513

## SENATE ENGROSSED NO. **SB 78** - 01/30/2006

Introduced by: Senator Knudson and Representative Michels

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to the submission of  
2 direct legislation to a vote of the people at a general election.

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

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

5 2-1-2. The petition shall be filed in the ~~office of the secretary of state~~ Office of the Secretary  
6 of State by the first Tuesday in ~~May~~ April of a general election year for submission to the  
7 electors at the next general election.

8 Section 2. That § 2-1-6.2 be amended to read as follows:

9 2-1-6.2. The full text of any initiative petition, referred law petition, or initiated  
10 constitutional amendment petition, the date of the general election at which the initiated law or  
11 initiated constitutional amendment is to be submitted, and the names and addresses of the  
12 petition sponsors shall be filed with the secretary of state prior to circulation for signatures. The  
13 signer's post office box number may be given in lieu of a street address if the signer lives within  
14 a municipality of the second or third class. The form of the petitions shall be prescribed by the  
15 State Board of Elections. For any initiated constitutional amendment petition, no signatures may  
16 be obtained more than twenty-four months preceding the general election that was designated



1 at the time of filing of the full text. For any initiative petition, no signatures may be obtained  
2 more than ~~eighteen~~ nineteen months preceding the general election that was designated at the  
3 time of filing of the full text. An initiative petition and an initiated constitutional amendment  
4 petition shall be filed with the secretary of state by the date set forth in § 2-1-2 or 2-1-2.1, as  
5 applicable. All sections of any petition filed under this chapter shall be filed with the secretary  
6 of state simultaneously together with a sworn affidavit on forms promulgated by the State Board  
7 of Elections, signed by two-thirds of the sponsors stating that the documents filed constitute the  
8 entire petition and to the best of their knowledge contain a sufficient number of signatures.

9 Section 3. That § 12-13-9 be amended to read as follows:

10 12-13-9. Before the ~~fourth~~ third Tuesday in ~~July~~ May, the attorney general shall deliver to  
11 the secretary of state ~~the~~ an attorney general's statement; for each proposed amendment to the  
12 Constitution and each initiated measure. The attorney general's statement for each referred  
13 measure shall be delivered to the secretary of state before the second Tuesday in July. The  
14 attorney general's statement shall consist of the title, the explanation, and a clear and simple  
15 recitation of the effect of a "Yes" or "No" vote. The explanation shall ~~state succinctly~~ be an  
16 objective, clear and simple summary to educate the voters of the purpose and ~~legal~~ effect of the  
17 proposed amendment to the Constitution, the initiated measure, or the referred law. The  
18 ~~explanation shall be a clear and simple summary of the issue and~~ attorney general shall include  
19 a description of the legal consequences of the proposed amendment, the initiated measure, or  
20 the referred law, including the likely exposure of the state to liability if the proposed  
21 amendment, the initiated measure, or the referred law is adopted. The explanation may not  
22 exceed two hundred words in length. On the printed ballots, the title shall be followed by the  
23 explanation and the explanation shall be followed by the recitation.

24 Section 4. That chapter 12-13 be amended by adding thereto a NEW SECTION to read as

1 follows:

2 In the year 2006, the attorney general's statement for each proposed amendment to the  
3 Constitution and each initiated measure shall be delivered to the secretary of state before the  
4 second Tuesday in July.

5 Section 5. That § 12-13-23 be amended to read as follows:

6 12-13-23. The secretary of state shall ~~prepare and~~ distribute public information on any  
7 constitutional amendment, initiated, or referred measure submitted to the electors for approval.  
8 The secretary of state shall compile the public information by printing a statement in support  
9 of the constitutional amendment, initiated, or referred measure written by its proponents, if any  
10 can be identified, and a statement against the constitutional amendment, initiated, or referred  
11 measure written by its opponents, if any can be identified. The secretary of state is not  
12 responsible for the contents, objectivity, or accuracy of the statements written by the proponents  
13 and opponents.

14 Section 6. That chapter 12-13 be amended by adding thereto a NEW SECTION to read as  
15 follows:

16 The secretary of state shall, within five days of delivery from the attorney general, make the  
17 attorney general's statement for each proposed amendment to the Constitution, each initiated  
18 measure, and each referred law available to any person upon request.