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1. LEGISLATIVE DRAFTING IN SOUTH DAKOTA
   An Overview

There is no one correct way to draft legislation, but there is a preferred style and form in each legislative setting that guides drafters in their work. The style that is preferred in South Dakota is explained and illustrated in this manual.

The purpose of this manual is to provide the information necessary to produce a usable and understandable bill draft. Joint Rule 6A-5 of the rules of the South Dakota Legislature requires that all legislation be reviewed for style and form by the Legislative Research Council before introduction.

The cardinal principle of legislative drafting is to minimize the possibility of misunderstanding. Complex, legalistic language or the "boilerplate" often found in old statutes is undesirable because it is not easily understood by anyone. The simplest way to state a proposition accurately is usually the best.

Unfamiliarity or inexperience should not prevent a person from making an attempt to draft legislation. Experience provides the best instruction. This manual provides template language for various bill types, concurrent resolutions, joint resolutions, commemorations, House or Senate (simple) resolutions, and resolutions of disapproval. Should these resources not satisfy, one may look at an example of a particular type of bill or resolution that has been drafted for the current year or prior years on the LRC website, http://sdlegislature.gov.

For any questions regarding the drafting of legislation, please contact the Legislative Research Council.
2. **GLOSSARY**

**ACT.** An Act is a bill that has been approved by both houses of the Legislature in identical form and signed by the Governor, or, if vetoed, passed over the Governor's veto. An Act is distinct from a resolution.

**AMENDMENT.** An amendment is an alteration proposed to a bill or resolution adding to, substituting for, or deleting material.

**APPROPRIATION.** An appropriation is an amount of money set apart by legislative act to be expended for a specific purpose within a specific time period.

**BILL.** A bill is a proposed law that has been introduced in the Legislature for consideration.

**BODY OF A BILL.** The body of a bill is the main text of the bill. Everything following the enacting clause is part of the body of the bill.

**CATCHLINE.** The catchline is the boldface material between the codified section number and the section material in the South Dakota Codified Laws. The catchline is a summarization of the material in the section, but it is not a part of the statute.

**COMMEMORATION.** An expression of the Legislature recognizing service or achievements of national or statewide importance or sorrow over a death or loss. Commemorations are done in the form of a resolution and are entered in the journals. A commemoration is not voted upon and is approved if no timely objection is made by a member of the Legislature.

**CONCURRENT RESOLUTION.** A concurrent resolution is a form of legislation that does not have the force of law but may stimulate some other governmental agency or the public to take some appropriate action. A concurrent resolution is used to express an opinion or principle of the Legislature, to authorize interim studies, instruct a department of state government, or to petition federal agencies.

**CONSTITUTION.** The Constitution is the fundamental law of the state. Amendments to the Constitution must be approved by a vote of the people. An Act is illegal if it violates the provisions of the Constitution.

**DRAFT.** A draft is any piece of written legislation, at whatever stage of preparation, that has not yet been introduced as a bill or offered as an amendment.

**ENGROSS.** Engross means to incorporate the amendments and corrections into the text of the bill after a committee or either house has adopted it.

**ENROLL.** Enroll means to prepare a bill as an Act to be presented to the Governor after it has passed both houses.

**HOGHOUSE.** A hoghouse is a bill in which everything after the enacting clause has been deleted and new material substituted. This term is unique to the South Dakota legislative process.

**HOUSE.** When used generally, house refers to either the Senate or the House of Representatives. The term, the House, refers to the House of Representatives.

**INTERNAL REFERENCE.** An internal reference is a citation within the body of a bill to another section of the bill or an existing statutory provision.
**INTERSTATE COMPACT.** An interstate compact is legislation enacted in identical or very similar form by two or more states. Only changes which affect the internal operation of the compact within the state should be made in drafting an interstate compact, even though its style and form may vary from normal South Dakota usage.

**JOINT RESOLUTION.** A joint resolution is used primarily to propose amendments to the South Dakota Constitution and to ratify amendments to the United States Constitution.

**LEADLINE.** A leadline introduces a section in a bill which amends or repeals existing law or which contains new material that should be placed within a particular portion of the Code.

**MODEL LEGISLATION.** Model legislation is suggested language for a bill published by interested parties. The drafting of model legislation requires the drafter to remove contradictory existing provisions that already exist in state law and to conform the model legislation to South Dakota style and form.

**RESOLUTION OF DISAPPROVAL.** A resolution of disapproval is used to suspend the operation of certain executive orders dealing with governmental reorganization.

**SESSION LAWS.** The session laws are a compilation of all Acts of the Legislature for a given session and include private, local, and special laws or appropriations which are not printed in the Code because of their temporary nature. These volumes also contain the text of each proposed amendment to the Constitution.

**SIMPLE RESOLUTION (e.g., HOUSE RESOLUTION, SENATE RESOLUTION).** A simple resolution is a form of legislation initiated and passed in one house only. A resolution is used to express an opinion or principle of one house, to make a request of the other house, to regulate procedure, to initiate impeachment proceedings in the House of Representatives or to refer to the Executive Board of the Legislative Research Council a topic for possible study by an interim study committee.

**SOUTH DAKOTA CODIFIED LAWS.** The *South Dakota Codified Laws*, also known as the Code, is often abbreviated SDCL and is the current codification of South Dakota statutes of a general nature. It does not include appropriations, local, or special laws. SDCL is divided by subject matter into titles that are further divided into chapters and sections.

**TITLE.** Title may mean either a group of related chapters in the Code or the title of a bill or resolution.

**UNIFORM ACT.** Uniform acts are suggested pieces of legislation published by the National Conference of Commissioners on Uniform State Laws in its annual handbook, and by the Council of State Governments annually in a volume entitled, *Suggested State Legislation*, or by the Uniform Laws Commission. The drafting of a uniform act may require a great deal of additional work on the part of the drafter to remove contradictory existing provisions that may already exist in state law, as well as minor style and format changes.
3. **ESSENTIAL COMPONENTS OF A BILL**

A bill consists of:

(1) A bill number;
(2) Sponsorship;
(3) A title;
(4) An enacting clause; and
(5) The body of the bill.

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**21.95.7**

**96th Legislative Session**

**2021 South Dakota Legislature**

**Senate Bill**

**Introduced by: The Committee on Judiciary**

**An Act to provide a sample bill for the Drafting Manual.**

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

**Section 1.** That § 99-7-2 be AMENDED:

99-7-2. Terms used in this chapter mean:

(1) "Artificial dairy products," any food which by its composition purports to resemble or imitate any dairy product;

(2) "Dairy product," includes but is not limited to, milk, cream, sour cream, butter cream, butter, skimmed milk, ice cream, frozen dessert, whipped cream, flavored milk or skim milk drink, dried or powdered milk, cheese, cream cheese, cottage cheese, creamed cottage cheese, ice cream mix, frozen dessert mix, sherbet, condensed milk, evaporated milk, and concentrated milk.

**Section 2.** That a NEW SECTION be added to chapter 1-6:

Cookies and cream is hereby designated as the official ice cream flavor of South Dakota.

**Section 3.** That § 39-8-15 be REPEALED:

This chapter shall be known as the "South Dakota Frozen Desserts Law."

**Section 4.** That a NEW SECTION be added to title 1:

Terms used in this chapter mean:
3.1. BILL NUMBER

The bill is assigned an official sequential number at the time the bill is introduced. In the case of prefiling, when the bill is introduced prior to the start of the legislative session, the Director of the Legislative Research Council assigns the bill number. The Senate and House of Representatives utilize the following numbering sequences:

- Senate Bills begin with 1;
- Senate Joint Resolutions begin with 501;
- Senate Concurrent Resolutions begin with 601;
- Senate Resolutions begin with 701;
- Senate Commemorations begin with 801;
- Senate Resolutions of Disapproval begin with 901;
- House Bills begin with 1001;
- House Joint Resolutions begin with 5001;
- House Concurrent Resolutions begin with 6001;
- House Resolutions begin with 7001;
- House Commemorations begin with 8001; and
- House Resolutions of Disapproval begin with 9001.

Accordingly, the bill number also indicates the house of origin. Bills are generally referred to by their complete number (e.g., Senate Bill 39, rather than Bill 39).

3.2. SPONSORS

No draft may be introduced as a bill without at least one individual legislative sponsor or the sponsorship of a legislative committee. The sponsorship is placed on the first page of the bill immediately before the title.

If the draft legislation has legislative sponsors, only the name of the prime sponsor of the bill will appear on a bill. The names of any co-sponsors of the bill will appear as part of the bill’s history, which can be found on the website of the Legislative Research Council.

Following are examples of preferred usage:

The example below indicates that Senator Smith is the prime sponsor.

Introduced by: Senator Smith

If a member wishes to indicate that the introduction of a particular bill is at the behest of a constituent or other private person, the legislator may affix the term, by request, to the end of the introduction line. However, this is not frequently done.

Introduced by: Senator Gerhardt by request
Any bill introduced at the request of a department, board, commission, or other state agency must be prefiling as a committee bill and must indicate the name of the state agency at whose request the bill is being introduced.

**Introduced by: The Committee on Health and Human Services at the request of the Department of Health**

**Introduced by: The Committee on Commerce and Energy at the request of the Electrical Commission**

If requested by the Governor or the Chief Justice of the Supreme Court, a bill may also be introduced by a standing committee. [SDCL 2-7-6.1](#).

**Introduced by: The Committee on State Affairs at the request of the Governor**

**Introduced by: The Committee on Judiciary at the request of the Chief Justice**

### 3.3. TITLE

Article III, section 21 of the State Constitution states that "No law shall embrace more than one subject, which shall be expressed in its title."

The title should briefly summarize, in a general statement, the subject of the proposed legislation so that a reader can understand what the enactment of the bill would accomplish without reading the body of the bill. It should be clear and direct.

Where a bill addresses multiple issues, the title should become more generalized, but it should remain as clear and direct as is accurate. In these cases, the title should be broad enough so that a minor change to the specifics of the bill will not necessitate a title amendment, but not too broad (see Other Bill Title Phrases below).

Direct citations to existing laws should not be made in the title. In other words, no section number should appear in a title (e.g., "section 3-1-1," "§ 3-1-1," "SDCL 3-1-1"). Code sections are not self-explanatory. A title must describe the proposed law.

The title should be written after the bill has been drafted. Only after drafting the entire bill can one accurately capture the bill's contents.

#### 3.3.1. ACTIVE VERBS

A title should only use active verb forms, which will express the purpose of the bill.

Some of the most commonly used active verb forms are:
3.3.2. BILL TITLE PHRASES

If a bill includes an appropriation, a new tax or tax increase, or if the bill is intended to be effective immediately upon final approval, or if it includes a new or increased civil or criminal penalty provision, then use the following phrases in the title, in the order depicted:

- and to provide a penalty therefor
- and to make an appropriation therefor
- and to increase a tax
- and to declare an emergency

The word "therefor" is included with certain phrases because it is necessary to show in the title that the "penalty" or "appropriation" relates back to the subject in the remainder of the title. The last three phrases alert the legislators of the necessity for a two-thirds vote on final passage. However, omission of a reference to the emergency clause in the title will not ordinarily affect the legality of the Act or render the emergency clause ineffective. The phrase "and to provide a penalty therefor" should be used whenever a felony penalty is established or increased by a bill. The phrase "and to increase a tax" should be added whenever a new tax or tax increase is proposed, or a new fee or fee increase is proposed, if the fee proceeds are not merely used to cover the cost and expense of supervision or regulation. An appropriation is any bill section that authorizes the disbursement of public revenue.

Lastly, pursuant to Joint Rule 6A-6, a bill introduced for the sole purpose of repealing an existing law shall indicate that the act is to "repeal provisions regarding [the subject matter of those repealed provisions]." Here again, a direct citation (e.g., SDCL 3-1-1) may not be used.
3.4. ENACTING CLAUSE

Article III, section 18 of the State Constitution requires that each bill introduced in the Legislature contain an enacting clause that must always read as follows:

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

In the instance of popular legislation (initiated measures), article III, section 1 of the State Constitution requires that the law contain an enacting clause that reads as follows:

BE IT ENACTED BY THE PEOPLE OF SOUTH DAKOTA:

The enacting clause of a bill always immediately follows the title. Any legislative amendment to delete the enacting clause has the effect of killing the bill.

3.5. BODY OF THE BILL

3.5.1. PURPOSE

The body of the bill sets forth the material intended to be enacted. The purposes may be one or any combination of the following:

- enactment of new substantive law
- amendment of existing law
- repeal of existing law
- appropriation of funds

Less frequently the purpose of a bill may be the validation or ratification of some governmental action.

3.5.2. SINGLE SUBJECT

If any question arises as to whether a bill embraces more than one subject, it is better to draft separate bills than to include provisions of questionable relationship under a single title.

3.5.3. BILL SECTIONS

The body of the bill should be divided into sections of convenient length, comprised of plainly worded, short sentences. The language should be understood by most people. Short sections facilitate reference to particular provisions.
Generally, each distinct proposition should be in a separate section, which, in turn, may be divided into subdivisions, if necessary. The sections in the body of the bill should be identified as follows: Section 1, Section 2, etc.

The body of the bill may contain any number of sections and provisions, so long as each section relates to the single subject expressed in the title and is germane to the subject of the bill.

3.6. CATCHLINES

The material in the *South Dakota Codified Laws* at the beginning of each section following the section number is called the catchline. The catchline is designed to summarize the statutory material. A catchline is not a part of the law. SDCL 2-14-9, 2-16-13.1. Bills should not include the catchlines.
4. COMMON COMPONENTS OF A BILL

Common components of a bill are as follows:

4.1. DEFINITIONS

4.1.1. IN GENERAL

It is frequently desirable to define words in a bill to assure clarity and precision of meaning. Definitions are also useful to avoid repetition.

If, however, a word has a clear, definite, and common meaning applicable to the law in question, a definition is unnecessary and might cause confusion. SDCL 2-14-1 provides that each word should be construed according to its common usage. In other words, the common meaning of a term applies unless statute expressly provides otherwise.

For example, SDCL 2-14-2 defines words that apply to each law unless the context plainly requires otherwise or the Legislature has otherwise established a special definition.

WORDS AND TERMS DEFINED UNDER SDCL 2-14-2 INCLUDE:

- according to usage
- adult
- children
- compound interest
- corporate surety
- creditor
- day
- debtor
- decree
- deposite
- folio
- full-time equivalent or FTE
- good faith
- Indian tribe
- month
- municipality
- oath
- person
- personal property
- population
- property
- real property
- seal
- several
- signature or subscription
- state
- testify
- third persons
- township boards
- usual and customary
- valuable consideration
- verdict
- voter
- will
- writing, written
- year
### 4.1.2. DEFINITIONS OF CONVENIENCE

If a section containing definitions is needed, the definition section should follow substantially the following form:

**Section 1. That § 83-1-1 be AMENDED:**

83-1-1. Terms used in this Act chapter mean:

1. "Agricultural property," all property and land used exclusively for agricultural purposes, both tilled and untilled, and the improvements on the land, including barns, farm land, grain storage, pasture land, stables, and other buildings housing agriculture implements;
2. "Department," the Department of Agriculture and Natural Resources;
3. "Insects," all arthropods, mollusks, and annelid worms except those that produce disease in man;
4. "Secretary," the secretary of the Department of Agriculture and Natural Resources; and
5. "South Dakota-Nebraska boundary waters" all waters of Lake Yankton, Lake Lewis and Clark, and the Missouri River, forming the South Dakota and Nebraska mutual boundary.

In the example above, it is obvious that the term, insects, is not given its correct scientific definition. This illustrates precisely the utility of a proper definition of convenience. Here a specific grouping of diverse biological forms is somewhat arbitrarily, but quite precisely, made reference to by means of a single, specially defined word.

**RULES APPLYING TO DEFINITIONS OF CONVENIENCE**

- Place definitions in alphabetical order.
- If amending a definition section that is not in alphabetical order, reorder the definitions and check cross references.
- Once a word is defined, use the word consistently throughout the draft bill.
- Do not use the term being defined in its own definition.
- Do not define a word already defined in the chapter being amended.
- Do not define a word that is not used in the bill or the law being amended.
- Do not include “unless the context requires otherwise”. This makes it very unclear as to when the definition is being used and when it is not being used.

### 4.1.3. DEFINITIONS OF LEGAL SUBSTANCE

If a definition constitutes substantive law, it should not be placed in a definition section. The following examples illustrate this point:
Section 4. That § 99-11-56 be AMENDED:

99-11-56. Any sale which has been verified to be an arms-length transaction must be included in the annual biennial study. For purposes of this section, the term, arms-length transaction, means the transfer of property offered on the open market for a reasonable period of time between a willing seller and a willing buyer with no coercion or advantage taken by either party. The director of equalization shall analyze each sale to eliminate factors related to the sale which affect the sale price but which do not reflect the actual value of the real property.

Section 5. That § 43-13-16 be AMENDED:

43-13-16. For purposes of §§ 43-13-17 to 43-13-20.5, inclusive, the term, wind easement, means a right privilege, whether or not stated in the form of a restriction, option to obtain an easement, easement, covenant, or condition, in any deed, will, or other instrument executed by or on behalf of any owner of land or air space for the purpose of ensuring adequate exposure of a wind power system to the winds, or an agreement to refrain from developing a wind power system.

Section 6. That chapter 89-7 be amended with a NEW SECTION:

Except for § 89-7-2, the term, artificial dairy product, may not be construed to mean or include:

(1) Any distinctive proprietary food compound not readily mistaken for a dairy product, where such compound is customarily used on the order of a physician and is prepared and designed for medicinal or special dietary use only and is prominently so labeled; . . . .

Section 7. That chapter 91-8 be amended with a NEW SECTION:

The following are exceptions to the prohibitions of this section:

(1) A person owning or occupying land and up to two guests may use night-vision equipment, a spotlight, or other artificial light, on the person's land; and

(2) An employee of the Department of Game, Fish and Parks may, while performing the person's duty, use night vision equipment and artificial lights.

For purposes of this section, the term, artificial light, means a man-made light or lighting device that projects lamination for an unaided eye. For purposes of this section, the term, night-vision equipment, means an electronic or battery-powered device that enhances a person's ability to see in the dark. ....
upon which rights and responsibilities depend. One of the most common drafting errors is to treat these substantive legal formulations as definitions of convenience.

4.1.4. ACRONYMS AND INITIALISMS

Acronym and initialism use should be avoided, if possible, and may only be used in drafting if the acronym or initialism is so widely used that readers are more likely to recognize them than the full term. For example, a drafter may use HIV (initialism) and AIDS (acronym). If an acronym or initialism appears in a standard dictionary, that is often a good indication of its wide use. If an acronym or initialism is used, it must be defined. Place the definition in alphabetical order according to the letters in the acronym or initialism, and not according to the words for which the letters stand.

Although frequently used in legal practice to denote titles, chapters, and sections of the South Dakota Codified Laws, the initials SDCL should never be used in the body of a bill. Instead, the word "title" or "chapter" or the symbol "§" should be used as appropriate. When working within the Code and referencing other aspects of the Code, there is no need to use the SDCL convention.

4.1.5. USE OF SHORT FORM FOR SUBSEQUENT REFERENCES TO TERMS

Key common terms—not defined—are often repeatedly used, even in individual sections. Repeatedly using full terms can unnecessarily add to the length of sections and impact readability. To remedy this, the use of short form references (e.g., "board" for "school board") is permissible in statutes, so long as there can be no reasonable ambiguity attributed to the short form use. Specifically, where the full term is used once in a section, the short form can be used for all subsequent references to the term in a section, provided that no other term in the section contains the short form (e.g., "board of trustees" and "school board"). If a term is key enough, and used often enough, it should be a definition of convenience or of substance.

4.1.6. DRAFTING NEW SECTIONS

Check to see if terms akin to the bill draft section are already defined in the chapter in which the section will likely be inserted. Use the existing defined terms if they accurately define the terms in the new section, or use different verbiage if they are not accurate. Below is an example in Code that highlights these concepts.

38-35-1. Definitions.
Terms used in this chapter mean:
(1) "Department," the Department of Agriculture and Natural Resources; ...
38-35-8. Planting--Documentation to be filed--Contents. Within thirty days of planting, each grower licensee under this chapter shall file with the department documentation as required by the secretary in order to identify the type and variety of each hemp seed planted with its corresponding lot. Any documentation provided under this section is not an open record pursuant to chapter 1-27 and may not be disclosed except to the Department of Public Safety or law enforcement. The department may make publicly available a list of all types and varieties of planted hemp seed submitted to the department.

Only as a last resort should the bill attempt to define a term differently than that term is already defined in the same chapter.

4.2 PENALTIES

A bill requiring or prohibiting certain actions may provide criminal or civil penalties for violations. More specifically, a section that describes the required or prohibited action should also contain the penalty for any violation of the section. The violation should be written as one of the existing classes of felonies or misdemeanors, SDCL 22-1-4; as a petty offense, SDCL 23-1A-22; or as having a civil penalty. This eliminates the need to specify the punishment and provides consistency within the Code. The current classifications of penalties are as follows:

FELONIES (SDCL 22-6-1)

(1) Class A felony: death or life imprisonment in the state penitentiary. A lesser sentence than death or life imprisonment may not be given for a Class A felony. In addition, a fine of fifty thousand dollars may be imposed;
(2) Class B felony: life imprisonment in the state penitentiary. A lesser sentence may not be given for a Class B felony. In addition, a fine of fifty thousand dollars may be imposed;
(3) Class C felony: life imprisonment in the state penitentiary. In addition, a fine of fifty thousand dollars may be imposed;
(4) Class 1 felony: fifty years imprisonment in the state penitentiary. In addition, a fine of fifty thousand dollars may be imposed;
(5) Class 2 felony: twenty-five years imprisonment in the state penitentiary. In addition, a fine of fifty thousand dollars may be imposed;
(6) Class 3 felony: fifteen years imprisonment in the state penitentiary. In addition, a fine of thirty thousand dollars may be imposed;
(7) Class 4 felony: ten years imprisonment in the state penitentiary. In addition, a fine of twenty thousand dollars may be imposed;
(8) Class 5 felony: five years imprisonment in the state penitentiary. In addition, a fine of ten thousand dollars may be imposed; and
(9) Class 6 felony: two years imprisonment in the state penitentiary or a fine of four thousand dollars, or both.
MISDEMEANORS (SDCL 22-6-2)

(1) Class 1 misdemeanor: one year imprisonment in a county jail or two thousand dollars fine, or both; and
(2) Class 2 misdemeanor: thirty days imprisonment in a county jail or five hundred dollars fine, or both.

PETTY OFFENSES (SDCL 23-1A-22)

If the plaintiff prevails in a petty offense case, the plaintiff is granted a judgment of twenty-five dollars. However, the trial court may reduce or eliminate the award in the interest of justice. No award may be granted a defendant in a petty offense case. A petty offense is treated as a civil matter, with the state named as the plaintiff. SDCL 22-6-77.

CIVIL PENALTY

A civil penalty is a financial payment assessed by a court or state agency for violation of a statute or rule. It is primarily sought to compensate the state for harm done to it. Any bill including a civil penalty should indicate who is assessing the civil penalty and also where any civil penalty collected will be deposited. It should also include a limit on the amount of the penalty. A single act may result in both a civil and criminal sanction. An example of a section of law containing a civil penalty is as follows:

Section 1. That chapter 37-25A be amended with a NEW SECTION:

   The director may impose a civil penalty against a person named in an order issued under § 37-25A-30 for violation of §§ 37-25A-7, and 37-25A-43 to 37-25A-46, inclusive. The amount of the civil penalty may not exceed five thousand dollars for each act or omission that constitutes the basis for issuing the order. Any civil penalty collected pursuant to this section shall be deposited into the state general fund. The civil penalty may only be imposed:

   (1) Following an opportunity for a hearing under § 37-25A-30 if notice delivered to all named persons includes notice of the director's authority to impose a civil penalty under this section; or

   (2) As part of an order issued pursuant to subdivision 37-25A-30(1) if the order is stipulated to by each person subject to the civil penalty.

DETERMINING THE APPROPRIATE PENALTY

The following may assist the drafter in determining an appropriate penalty for the violation of the law:
• Felonies: serious injury to persons or property.

• Class 1 misdemeanors: minor injury to property.

• Class 2 misdemeanors:
  o Failure to carry out a mandatory duty.
  o Violations of an agency rule or regulation.
  o Violations of health or safety laws.

• Petty offenses: nuisances that cause no serious injury.

• Civil penalties: violations that are regulatory in nature and do not require knowledge of the wrongness of the act.

IDENTIFYING THE PENALTY

Excepting civil penalties, as they comprise their own section as provided above, always place the penalty in the section in which the required or prohibited action is described by adding a sentence such as:

"A violation of this section is a Class 2 misdemeanor."

or

"A violation of this section is a petty offense."

PRISON OR JAIL POPULATION COST ESTIMATES (SDCL 2-9-33)

A bill or amendment that impacts the population of a state prison may require a prison population cost estimate. The requirement applies if the bill or amendment increases the period of imprisonment authorized for an existing crime that has a felony penalty, adds a new crime with a felony penalty for which imprisonment is authorized, imposes a minimum or mandatory minimum term of imprisonment, or modifies any law governing the release of a prisoner from imprisonment or supervision. The estimates are prepared by the Legislative Research Council and need to be completed before final disposition is taken on the bill.

4.3 EFFECTIVE DATES

4.3.1. IN GENERAL

Any Act that does not express an effective date or an emergency clause, if passed at the regular session, takes effect on the first day of July after its passage. If the legislation is passed during a special session, the law takes effect on the 91st day after final adjournment of the session, unless prescribed otherwise in the bill.
Legislation passed during a regular session can take effect 90 days after the adjournment of session but before July 1, without needing an emergency clause, so long as the bill prescribes when it takes effect. Example language is provided below.

**Section 27.** This Act is effective June 28, 2021.

The early implementation clause can apply to the entire Act (as shown above) or it can apply to only certain sections (as shown below). If the early implementation clause applies only to certain sections of the Act, the other sections take effect on July 1 of the year of passage, unless otherwise stipulated.

**Section 40.** Sections 27 to 39, inclusive, of this Act are effective on June 28, 2021.

### 4.3.2. EMERGENCY

An emergency clause gives effect to an Act of the Legislature immediately upon approval by the Governor. *If a bill contains an emergency clause, the bill requires concurrence by two-thirds of the members of each house and must be a true emergency.* The emergency clause is used for:

(1) The support of state government; or
(2) The immediate preservation of public peace, health, or safety.

**The title of the bill should make reference to the fact that an emergency clause is in the bill.** An emergency clause, when required, should be the last section of the bill, in one of the forms listed below.

Bills relating to taxation, the raising of revenue, or appropriations should use the following "support of state government" form:

**For the Support of State Government**

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

Bills that are regulatory in nature should use the "preservation of public peace" form as follows:
For the Immediate Preservation of Public Peace, Health, or Safety

Section 20. Whereas, this Act is necessary for the immediate preservation of the public peace, health, or safety, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

4.3.3. DELAYED IMPLEMENTATION

The implementation of an Act may be delayed until some later date. This is accomplished by inserting a delayed implementation clause as shown below.

Section 30. This Act is effective on January 1, 2022.

The delayed implementation clause can apply to the entire Act (as shown above) or to only certain sections (as shown below). If the delayed implementation clause applies only to certain sections of the Act, the other sections take effect on July first of the year of passage, unless otherwise stipulated.

Section 40. Sections 27 to 39, inclusive, of this Act are effective on January 1, 2022.

4.3.4. SUNSET PROVISIONS

It is also possible to require an Act or sections of an Act to be automatically repealed (or sunsetted) on a certain date:

Section 35. The provisions of this Act are repealed on June 30, 2023.

For the sake of clarity, where the bill sponsor wants to automatically repeal an Act that amends existing statute, with the intention that the prior codified statutory language should revert, use the following language:

Section 35. The provisions of this Act are repealed on June 30, 2023, and Code sections amended by this Act will revert in word and substance to that which existed immediately prior to the effective date of this Act.
5. RARE COMPONENTS OF A BILL

The following bill components are sometimes seen in other states. They are generally avoided in this state, but may be used in rare instances.

5.1. DECLARATION OF PURPOSE OR LEGISLATIVE INTENT

A well-drafted bill should not need a declaration of purpose or other statement of legislative intent as:

- Courts will look to the plain language of the statute's operative provisions to obtain legislative intent, and only look to declarations of purpose where that plain language is ambiguous;
- Declarations of purpose are not binding on courts; and
- Well-written law plainly informs the public of their duties, obligations, privileges, and prohibitions, leaving no need to resort to the abstract intentions of the Legislature.

However, in the rare occurrence that a statement of policy or purpose is to be included, it is ordinarily the first section of the bill and should be short and concise. An improperly worded statement of purpose may cause serious problems of judicial interpretation. If such a statement is used, it might appear in the following form:

Section 1. In enacting legislation to provide loans and scholarships for the study of medicine, it is the intention of the South Dakota Legislature to alleviate the shortage of physicians.

While declarations of purpose can be found in the South Dakota Codified Laws, and they may continue to be included in session law despite attempts to discourage their use, by virtue of a directive issued by the Code Commission in October 2019, such new content will no longer be codified. Additionally, such content falls under "prefatory subject matter" that is excluded from the Code per SDCL 2-16-13.1.

5.2. LEGISLATIVE FINDINGS

The Legislature cannot alter past events or scientific facts by passing a law. However, if construction of a statute depends on a factual situation, the Legislature may wish to present its understanding of the situation in a "finding of fact" section. If such a statement is needed, it might appear in the following form:

Section 1. The Legislature finds that the Lakota, Nakota, and Dakota dialects of the Sioux Language are historically unwritten languages and are defined as such by the provisions of Public Law 94-73 as of January 1, 2000.

The use of footnotes for legislative findings or for any purpose in a bill or resolution is not legislative practice and is therefore discouraged.
As with declarations of purpose or statements of intent, legislative findings will not be codified by virtue of the directive issued by the Code Commission in October 2019. Moreover, such content falls under "analyses" that are excluded from the Code pursuant to SDCL 2-16-13.1.

Legislative findings typically are a product of the legislative process itself, beginning with the committee hearings.

5.3. SEVERABILITY CLAUSES

Although severability clauses are frequently encountered in the laws of other states, they are typically not included in any South Dakota bill. Severability is a long-established doctrine of the Supreme Court of South Dakota, sometimes called "the doctrine of severability." The Court is required to uphold any part of a legislative measure that will stand on its own without the part that is unconstitutional.\(^1\)

If a uniform or model act contains a severability clause, the severability clause may be retained to maintain uniformity among the states.

INSEVERABILITY CLAUSES

Occasionally, the reverse situation may exist. It may be desirable to indicate that parts of the bill are not intended to be severable. In such a case, a section should be inserted to reverse the presumption of severability:

**Section 7.** The provisions of this Act are essentially and inseparably connected and interdependent.

5.4. SHORT TITLES

The use of short titles in a bill is inconsistent with the practice of codification in South Dakota and discouraged. Short titles are titles expressed in bill text, independent of the title required of all bills. An example in statute is provided below:

**39-8-15. Citation of chapter.**

This chapter shall be known as the "South Dakota Frozen Desserts Law."

These provisions should not be included in bills because the legal purpose of the title is already fulfilled by the constitutional title at the top of the bill. To add another "title" only creates confusion.

Codified statute specifies that such "titles . . . constitute no part of any statute." SDCL 2-14-9. Accordingly, new such provisions will not be codified.

\(^1\) See State ex rel. Mills v. Wilder, 73 SD 330, 42 N.W. 2d 891 (1950), and Nelson et al v. City of Miller, 83 S.D. 611, 163 N.W. 2d 533 (1968).
An exception may be made for Uniform State Laws, because a short title for a uniform act indicates that courts in other states may have already construed the provision.

5.5. COMPENSATION FOR COMMISSION MEMBERS

The Legislature does not set per diem and expense allowances of existing boards or commissions in legislation other than a general appropriations act. For newly created boards and commissions, the appropriations committee can temporarily set the rates during its interim meetings between sessions.

5.6. RETROACTIVITY

On rare occasions there is a need and justification to make an Act effective retroactively. The following clause is an example:

Section 11. That chapter 92-11 be amended with a NEW SECTION:

   Each benefit provided by this Act applies to the surviving beneficiaries of each member of the retirement system who has died since July 1, 2015.

5.7. CODE COMMISSION AUTHORIZATION CLAUSE

If a bill requires changes in many sections of the Code, it may be best to authorize the Code Commission to implement the change. For example, if the bill sponsor wanted to change the name of the office of "state's attorney" to "counsel for the county," one would amend the Code section in which the office is statutorily created and, at an appropriate place in the bill, include a section to this effect:

Section 13. That a NEW SECTION be added to title 65:

   The term, state's attorney, wherever it is used in this code, means counsel for the county. The code commission in future supplements and revisions of the South Dakota Codified Laws shall substitute the term, counsel for the county, and its derivatives for the term, state's attorney, and its derivatives.

Similarly, if the bill sponsor wanted to change the name of a state agency, include a section to this effect:

Section 13. That chapter 1-18 be amended with a NEW SECTION:

   The code commission is authorized and directed in future compilation of laws and supplements or any revision of the laws of this state to strike all
It is important to remember that the Code Commission is not inherently authorized to make the above changes to Code. The Commission can correct "apparent errors" and eliminate "obviously obsolete or ambiguous sections," but even where the Commission has authority to "substitute terms or phraseology" like the first example above, or "names of boards, commissions, and agencies," like the second example, such authority only comes from the Legislature intending the Commission to make the change "expressly or by implication." In these latter examples, then, the change is created by statute and then the authority to implement that change is granted to the Code Commission.
6. APPROPRIATIONS

Article XI, § 9 and Art. XII, § 1 of the State Constitution require an appropriation for any money to be paid out of the treasury. Article XII, § 2 provides that only the regular, ongoing expenses of state government are to be funded through the General Appropriation Act. Any money not appropriated through the General Appropriation Act must be appropriated in separate special appropriation bills each embracing one object.

In any special appropriation bill, the method of financing should be stated as a separate section. The appropriation section should state the officer or agency to which the appropriation is made, its amount, the period for which it is to be used, and the source. However, the exact amount of the appropriation should not be stated in the bill's title.

A special appropriation bill can provide legislative intent or criteria for the appropriation. For example, the bill can specify the following appropriation requirements:

- Denominations of moneys awarded;
- Criteria for receiving the moneys;
- Conditions for releasing the moneys;
- The agency's duties in managing the distribution of moneys;
- Reporting requirements; and
- Outcome measures.

The elements of most special appropriation bills are very similar. As a result, many special appropriation drafts can almost be described as filling in a blank form. A blank form is shown below. The second section is optional if the drafter wants to provide more legislative intent or direction regarding the appropriation. Follow it closely when drafting a special appropriation bill and avoid using terms such as "authorized to expend" when the term "appropriate" may be used.

| Section 1. | There is hereby appropriated from the _[name]_ fund the sum of $ _[amount]_ to the _[agency's name]_ for _[the purpose(s)]_. |
| Section 2. | (optional) The appropriation provided in section 1 shall (insert the appropriation requirements). |
| Section 3. | The _[agency administrator]_ shall approve vouchers and the state auditor shall draw warrants to pay expenditures authorized by this Act. |
| Section 4. | Any amounts appropriated in this Act not lawfully expended or obligated shall revert in accordance with the procedures prescribed in chapter 4-8. |
**SDCL chapter 4-8** lays out lawful authority and procedures for state expenditures. **SDCL 4-8-21** regards reverting special appropriation moneys. It establishes a date by which all unexpended, appropriated moneys revert back to the fund from which the moneys were appropriated. The default date is four full fiscal years following the effective date of the special appropriation. The appropriation can revert sooner or later if expressed in the special appropriation bill, as shown below.

**Section 4.** Any amounts appropriated in this Act not lawfully expended or obligated by July 1, 2023, shall otherwise revert in accordance with the procedures prescribed in chapter 4-8.

Note that appropriations with effective dates prior to July 1, including those with emergency clauses or those with an earlier effective date specified, will use current fiscal year moneys. Those appropriations bills that are effective July 1 will use the next fiscal year's moneys.

Examples of a special appropriation bill (Example 13.18), a special appropriations bill for buildings or new facilities (Example 13.19), or continuous appropriations bill (Example 13.20) can be found in the Appendix.
7. RESOLUTIONS AND COMMEMORATIONS

Resolutions are expressions of the sentiment or will of the Legislature. There are four types: joint, concurrent, simple, and resolutions of disapproval. The Joint Rules also provide for a special type of less formal resolution called a commemoration. Each type of resolution has unique qualities.

7.1. JOINT RESOLUTION

A joint resolution is used for consideration of certain special types of legislation. A joint resolution is used for proposing amendments to the State Constitution. A joint resolution is also used to ratify or propose amendments to the United States Constitution and to place measures on the ballot. A sample joint resolution can be found in the Appendix, Example 13.22.

7.2. CONCURRENT RESOLUTION

A concurrent resolution does not have the force of a statute. A concurrent resolution may only be used to express an opinion or principle of the Legislature, to authorize interim studies, instruct a department of state government, or petition federal officials or agencies. A sample concurrent resolution can be found in the Appendix, Example 13.23.

7.3. SIMPLE RESOLUTION

A simple resolution is only acted upon by the house where it is introduced. This resolution may be used to express an opinion or principle of that house, to communicate to the other house, or to regulate its own procedures or conduct. A simple resolution may be used to refer a topic to the Executive Board of the Legislative Research Council for possible study by an interim committee. A sample simple resolution can be found in the Appendix, Example 13.24.

7.4. RESOLUTION OF DISAPPROVAL

A resolution of disapproval permits a house of the Legislature to disapprove of any executive order reorganizing state government that was issued during the preceding year, pursuant to S.D. Const. Art. IV, § 8. A sample resolution of disapproval can be found in the Appendix, Example 13.25.

7.5. COMMEMORATION

A commemoration expresses legislative recognition and is not subject to a vote. Instead, if any member makes a timely objection to a commemoration, the commemoration fails. Commemorations should deal only with congratulations or condolences, expressions of gratitude, or recognition of a special event or celebration. A sample commemoration can be found in the Appendix, Example 13.26.
7.6. DRAFTING RESOLUTIONS AND COMMEMORATIONS

Most concurrent or simple resolutions consist of a title, a preamble, and a body.

The title states the type and subject of the resolution. It should be clear, concise, and give an accurate description of the resolution's contents.

The preamble is a series of "Whereas" clauses that describe the situation or conditions for which the resolution proposes action. Language in a preamble may be more literary or rhetorical than would be appropriate in other forms of legislation.

A joint resolution does not ordinarily contain a preamble.

The preamble of a commemoration should not contain more than three short "Whereas" clauses since commemorations are usually enrolled as one-page documents suitable for framing. Example 26 in the Appendix is a good guide for the maximum length of a commemoration that is able to fit on one page.

The body of a resolution is the closing, or resolving clauses, which propose action or express the opinion of the Legislature.
8. PROPER FORM AND STYLE IN BILL DRAFTING

8.1. MAINTAINING CONSISTENCY

When it comes to bill drafting, consistency is key. Consistency, rather than variety, in language, organization, and arrangement is a prime rule in good bill drafting. The same word or phrase should be used to denote the same thing throughout a bill. New bill language should utilize the same terms used in the statutes to which it is added.

Terms that are defined in a bill should be repeated exactly and without variation in each portion of a bill following the definition. Sections similar in substance should be similarly arranged and outlined.

By following the rule of consistency, the drafter eliminates, to a great extent, the possibility of misinterpretation and disagreement over the content of the bill. The use of synonyms, merely for the sake of variety, leads to the possibility of divergent constructions of the language or at least uncertainty as to why the synonym was used.

| Correct | If a student has been assigned by the board of the school district in which the student resides or has been assigned as provided by law, the board shall pay the student's tuition. |
| Incorrect | If a student has been assigned by the board of the school district where the child has a school residence or has been assigned as provided by the statute, the school board shall pay the pupil's tuition. |

8.2. NEW, AMENDED, AND REPEALED STATUTES

When amending existing statutes, the parts that are to be deleted must be overstricken and new material must be underscored. New material always follows the overstricken material. Do not reverse the order.

If the material to be overstricken consists of more than one sentence, any new or underscored material replacing the old or stricken material should be inserted at the end of the stricken material. Periods should be carried to the end of the sentence in which new material is being inserted and treatment should be the same as in simple amendments where new material is inserted after a specified word and before the period.

Do not overstrike or underscore part of a word, number, or citation:

- not animals, but animal animals
- not § 32-14-79 87, but § 32-14-79 32-14-87
- not forty-five, but forty-five forty
When amending, repealing, adding a new section to the Code, or adding a new chapter to the Code, use an appropriate lead line for each section of the bill:

"That § 2-23-71 be AMENDED:"
"That § 2-23-71 be REPEALED:"
"That chapter 2-23 be amended with a NEW SECTION:" 
"That a NEW SECTION be added to title 2:" 
"That a NEW SECTION be added to a new title:" 
"That Article IX, § 1 of the Constitution of the State of South Dakota, be AMENDED:" 
"That Article IX, § 2 of the Constitution of the State of South Dakota, be REPEALED:" 
"That Article X of the Constitution of the State of South Dakota, be amended with a NEW SECTION:" 
"That the Constitution of the State of South Dakota, be amended by a new Article with a NEW Section:" 

Sections that include entirely new material must be underscored. The lead line will indicate that it is a new section.

Ordinarily, sections of a bill amending or repealing code sections should appear in numerical order. If, however, the bill is easier to understand by placing the most important amended section of the bill at the front of the bill, or if the bill is establishing a new chapter of Code, the definition section for the new chapter, the order in which the sections appear in the bill may be altered.

Examples of bills adding new sections to the Code, amending sections of the Code, and repealing sections of the Code can be found in the Appendix.

8.3. NUMBERING STATUTORY MATERIAL

The basic working unit of the South Dakota Codified Laws is the section. A group of related sections form a chapter; and a group of related chapters form a title. Ordinarily, sections are not broken down into smaller units. When this does occur, the resulting unit is called a subdivision. In the rare event that a subdivision is divided, the resulting unit is called a subsection.

A sample citation for a subsection might be subsection 77-3-31(2)(b).

- 77 is the title
- 3 is the chapter
- 31 is the section
- (2) is the subdivision
- (b) is the subsection
Graphically this arrangement could be represented as follows:

<table>
<thead>
<tr>
<th>77-3-31. Introductory material:</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Subdivision;</td>
</tr>
<tr>
<td>(2) Subdivision;</td>
</tr>
<tr>
<td>(a) Subsection;</td>
</tr>
<tr>
<td>(b) Subsection; and</td>
</tr>
<tr>
<td>(c) Subsection; and</td>
</tr>
<tr>
<td>(3) Subdivision.</td>
</tr>
</tbody>
</table>

Unless subdivisions contribute to the clarity of the statute, avoid their use.

Do not create multiple subdivision lists within a section.

Do not create multiple subsection lists within a subdivision.

While the federal drafting style, which is also used in a few states, assigns a subdivision designation to each paragraph of any multiparagraph section, this practice is not used in South Dakota. It is not needed because most sections do not contain more than one paragraph.

**8.4. USING APPROPRIATE LANGUAGE AND WRITING STYLES**

**8.4.1. IMPERATIVE, PERMISSIVE AND PROHIBITIVE CONSTRUCTION**

The verbs used in legislation should be active and in the present tense. Verbs are generally imperative, permissive, or prohibitive. This is a guide to usage:

- **shall** = required action
- **may** = permitted action
- **may only** = restricted permitted action
- **may not** = prohibited action
- **must** = action required as a condition of something; used with inanimate subjects
- **must be** = required condition
- **is** = statement of condition

The term, **shall**, is defined in [SDCL 2-14-2.1](https://www.sdlegislature.gov/Legislation/Statutes/SDCL/chapter2_sub14_2). That section provides that, unlike the common or legal definition, when the term is used to direct any action it manifests a mandatory directive and does not confer any discretion in carrying out the action so directed.

Legislation giving discretion to an officer or board using "may" should also establish guidelines to be followed in exercising that discretion. A negative used with "may" negates the obligation and permission to act and is the stronger prohibition. A negative used with "shall" negates the obligation, but not the permission, to act and therefore should be avoided. Shall may not be used to establish a description or condition, as provided in the examples below:
The term, commission, means the water commission.

The term, commission, shall mean the water commission.

The capital of the state is Pierre.

The capital of the state shall be Pierre.

Do not use the word "shall" to confer a right because, in that case, the use of "shall" implies a duty to enjoy the right.

The secretary’s annual salary is twenty-one thousand dollars.

The secretary's annual salary shall be twenty-one thousand dollars.

"Must" should only be used rather than "shall" when the subject of the sentence is a necessary condition, or the actor with the duty cannot be specified in the sentence.

The agreement must establish standards to be effective.

For licensure, a person must possess the qualifications.

The substance must be determinable by lab methods.

All documents must be in portable document format.

Because the nature of statute is to largely set directives (i.e., duties and obligations of persons or entities) or impose obligations on specific actors, "shall" should generally be used over "must." Consider rewriting the sentence to specify who has the obligation to act; the draft legislation will be clearer and there will be no need to use "must."

Put another way, "must" should only be used when a condition must exist and the ability to phrase as a directive is not feasible or causes clarity issues.

The additional flag must be equal in size to or smaller than the official United States flag.

The risk assumed by a health benefit plan under such healthcare benefit coverage must be reinsured by a company authorized to do business in this state.
Example
The risk assumed by a health benefit plan under such healthcare benefit coverage must be reinsured by a company authorized to do business in this state.

8.4.2. ACTIVE VOICE

Use the active voice whenever possible. The use of the active voice expressly identifies the principal actor—the person or entity who has a power, privilege, or duty—as the subject of a sentence, logically followed by the mandate (i.e., verb and object) imposed. Passive voice generally employs the opposite order—object, verb, then subject—and is often indicated by the phrase "shall be."

<table>
<thead>
<tr>
<th>Active voice</th>
<th>The board shall appoint a director.</th>
</tr>
</thead>
<tbody>
<tr>
<td>(subject)</td>
<td>(verb)</td>
</tr>
<tr>
<td>(object)</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Passive Voice</th>
<th>A director shall be appointed by the board.</th>
</tr>
</thead>
<tbody>
<tr>
<td>(object)</td>
<td>(verb)</td>
</tr>
<tr>
<td>(subject)</td>
<td></td>
</tr>
</tbody>
</table>

The distinction between the correct use of active voice versus passive voice is provided by the examples below:

Correct
The judge shall determine the challenge in the same manner as if made to an individual juror for bias.

Incorrect
Such challenge shall be determined in the same manner as if made to an individual juror for bias.

Within the use of active voice, impersonal constructions should also be avoided.

Correct
The board shall appoint a director.

Incorrect
It is the duty of the board to appoint a director.

Do not use a negative subject with an affirmative "shall."

Correct
No person may . . .

Incorrect
No person shall . . .

The passive voice must be used when unidentified principals are necessarily involved.

Example
All plumbing and plumbing systems must be designed, constructed, installed, improved, extended, and altered in substantial accord with the requirements of the 2015 Uniform Plumbing Code.

Example
In the event the volunteer uncompensated worker has never been employed, the worker shall be considered to be earning the state minimum wage over a forty-hour week.
Correct  The party or attorney exercising a peremptory challenge shall announce the challenge; but the name of the juror challenged need not be announced.

Incorrect  When a peremptory challenge is exercised it shall be announced by the party or attorney exercising it; but the name of the juror challenged need not be announced.

The passive voice may be used when use of the active voice would cause awkwardness of construction. For example, one cannot generally use active voice for an exception or condition precedent to the statute's main effect. Passive voice should only be used when necessary for that purpose, however.

Correct  If the child has been removed from the home and has been placed in temporary custody of the department, the department shall make reasonable efforts to return the child to the home.

Incorrect  With the exception of the president or the chief executive officer, the directors shall be elected by the shareholder class.

Correct  The shareholder class shall elect all directors except the president or the chief executive officer.

8.4.3. SINGULAR SUBJECT

Use the singular instead of the plural. SDCL 2-14-6 provides that words used in the singular number include the plural, and vice-versa, as applicable.

Correct  A defendant in a criminal action is presumed innocent until the contrary is proved.

Incorrect  Defendants in criminal actions are presumed innocent until the contrary is proved.

8.4.4. COMMON, CONCISE LANGUAGE

Generally speaking, the use of short, simple sentences is best. Using complex sentences often requires excessive punctuation which can be confusing and lead to possible misinterpretation. Use shorter, simpler words whenever possible. Do not use made-up words ending in "-ize" or "-zation." Avoid legalisms, jargon, and redundancies.

Avoid adjectives such as "real," "true," and "actual," and adverbs such as "duly" and "properly." Do not use "total" before "amount." These ideas are normally implied. Expressing them creates doubt whether they are implied elsewhere. Do not use "adequate," "sufficient," "promptly," "approved," or "reasonable" unless one specifies what these words mean or refers to the standards that must be met.
8.4.5. USE OF "CHAPTER" INSTEAD OF "ACT"

Despite the inflexibility of using "chapter" instead of "Act" for purposes of codification, a bill that is intended to create a new chapter in the South Dakota Codified Laws should contain the word "chapter" to describe those aspects of the bill that are meant to apply to the new chapter as envisioned. Cross-references between sections of the bill, however, should use "Act." Be careful, however, where the bill, in addition to creating a new chapter, amends existing sections of the Code, so as to distinguish between those provisions that should apply only to the new chapter and those that apply to the amendments or the bill as a whole.

8.4.6. USE OF SHORT VERSION OF NOUNS IN BILLS

Key nouns are often repeatedly used in individual sections, and often comprise multiple words. Repeatedly using full terms can unnecessarily add to the length of sections and impact readability. To remedy this, the use of short version references (e.g., "board" for "school board") is permissible in statutes, so long as there can be no reasonable ambiguity attributed to the short version use.

Specifically, where the full term is used once in a section, the short version can be used for all subsequent references in a section, provided that no other term also contains the short version (e.g., "board of trustees" and "school board").

The short version should not be used in place of the first use of a defined term in a section. Thereafter, in that section, if there is no ambiguity, a short version for the defined term may be used.

```
Example 1 13-5-17. Recording of school district names, numbers and boundaries--Duplicate names prohibited. Each school district name and number and a description of the district's boundaries shall be recorded in the office of the secretary of the Department of Education. The secretary shall refuse to record as the name of any district a name which has been previously chosen and recorded by another district in the same county.

Example 2 13-32-4.1. Attendance policy--Adoption by school board--Suspension and expulsion power unaffected. The school board of every school district may adopt an attendance policy in accordance with procedural due process rules established by the South Dakota Board of Education Standards pursuant to § 13-32-4. Any attendance policy adopted pursuant to this section is not to be construed as limiting the powers of the school board of a school district to suspend or expel students pursuant to § 13-32-4.
```

8.4.7. TIME

Use the present tense. The present tense is the most natural and simplest form of expression. SDCL 2-14-7 provides that words used in the present tense include the future as well as the present.
**Correct**
A defendant in a criminal action **is** presumed to be innocent until the contrary **is** proved, and in case of a reasonable doubt whether guilt **is** satisfactorily shown, the defendant **is** entitled to an acquittal.

**Incorrect**
A defendant in a criminal action **shall be** presumed to be innocent until the contrary **shall be** proved, and in case of a reasonable doubt whether guilt **shall be** satisfactorily shown, the defendant **shall be** entitled to an acquittal.

Specific times must be depicted as "a.m." or "p.m." Do not use "o'clock" and "p.m." or "a.m." together.

### 8.4.8. CAPITALIZATION

The policy of the Legislature is to encourage normal capitalization usage. The guidelines of the *Chicago Manual of Style* serve as a general model.

Capitalize proper names (e.g., person, place, organization) in the text of a bill.

Capitalize officially titled state or federal acts. For example, Securities and Exchange Act of 1934; South Dakota Human Relations Act of 1972. Before capitalizing the name of a particular state act, check the *South Dakota Codified Laws* to be sure it does have a specific name; for example, see SDCL 20-13-56. On the other hand, a reference to laws on a particular subject, such as "insurance statutes," is not capitalized.

**The proper name of a department, governmental agency, or institution is capitalized:**

- Legislature
- Governor
- Senate
- Department of Revenue
- University of South Dakota
- Environmental Protection Agency
- Medicare
- Supreme Court
- House of Representatives
- Board of Pharmacy
- Human Services Center
- Division of Insurance
- Hughes County Commission
- South Dakota National Guard

**These references do not require capitalization:**

- department
- university
- county commission
- agency
- board
- division
- chief justice
The titles of offices or programs within departments are not capitalized.

Excepting the Governor, the titles of state, county, municipal, or district officials are not capitalized:

- secretary of state
- secretary of agriculture
- county commissioner
- mayor
- supervisor

The titles of county and municipal boards are not capitalized.

The full title of a fund is not capitalized:
- motor vehicle fund
- Unified Judicial System court automation fund
- water and environment fund

Substitutions for official titles, such as "secretary" or "director," are not capitalized.

The words "title," "article," "chapter," "section," or "rule" are not capitalized.

The word "Indian" is capitalized.

Classifications of criminal punishments are capitalized (e.g., Class A felony, Class 2 misdemeanor).

**8.4.9. USE OF EXAMPLES**

Legislation should not include the phrase "including, but not limited to...."
The phrase "but not limited to" is redundant, as the plain definition of the term, including, is not exhaustive.

If there is a general statement in statute, there should not be examples. If there are listed examples, they should be exhaustive; and there should be no general statement.

<table>
<thead>
<tr>
<th>Correct</th>
<th>Contains the applicant's relevant personal identifying and contact information.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Correct</td>
<td>Contains the applicant's legal name, address, telephone number, e-mail address, and website address.</td>
</tr>
<tr>
<td>Incorrect</td>
<td>Contains the applicant's relevant personal identifying and contact information, including the applicant's legal name, address, telephone number, e-mail address, and website address.</td>
</tr>
</tbody>
</table>
8.4.10. GENDER

If the proposed law is intended to apply to persons of both sexes, it is best to use gender-neutral terms, such as "applicant," "licensee," or "person" in bill drafting. Avoid the use of pronouns altogether, by substituting their antecedents, so the phrase "He shall file..." might read "The licensee shall file . . . " Often a sentence may be rewritten to avoid a construction requiring a pronoun.

Do not use the phrases "he or she" or "him or her" as in "he or she shall file." Do not use "they" or "their" as a singular subject. If the antecedent can, for biological reasons, only be masculine or feminine, the masculine or feminine pronoun may be used.

In the process of amending statute, if the statute uses terms that should be gender-neutral, it is appropriate to amend the language to reflect gender neutrality.

8.4.11. PERSON-FIRST LANGUAGE

When referring to persons with disabilities or disorders, it is generally best to put the reference to the person first and the disability or disorder last.

| Correct | person with a developmental disability |
| Incorrect | the developmentally disabled |
| Correct | person with a visual impairment |
| Incorrect | the visually impaired |

Additionally, do not make the person synonymous with the disability or disorder (e.g., autist, epileptic, quadriplegic).

8.4.12. USE OF TRADE, NONGOVERNMENTAL ORGANIZATION, OR BRAND NAMES

Statutes should not contain references to trade, nongovernmental organization, or brand names. It should be possible to describe the item or service with sufficient detail to not resort to these names.

8.4.13. HYPHENATION

Frequently used words that should be hyphenated include:

| auditor-general | e-mail | low-income |
| full-time | long-term | low-level |
| low-point | over-the-counter | pari-mutuel |
| non-ad valorem | rights-of-way | state-owned |
| rule-making authority |  |  |
Do not hyphenate:
ex parte      interstate      intrastate
nonresident  prima facie  pro rata
prorate      statewide      vice president

Compound Modifiers

Compound modifiers should generally be hyphenated. Compound modifiers are multiple words that, combined, form a single descriptor of a noun.

Correct  "shall use evidence-based practices"
          (compound modifier) (noun)
Correct  "any state-of-the-art design"
          (compound modifier) (noun)

There are, however, some exceptions. Compound modifiers that follow the noun they modify are not hyphenated.

Incorrect  "employ a practice that is evidence-based"

Compound modifiers that contain -ly adverbs are also not hyphenated.

Incorrect  "distributed to matrilineally-related individuals"

Hyphenating Numbers

Where numbers are spelled out, only compound numbers, or that portion of the number forming a compound number, should be hyphenated.

Example  forty-five
Example  one hundred and fifty-seven
Example  thirty million, sixty-seven thousand, nine hundred and two

Besides a written compound number, no hyphens should be used after a number, whether written out or indicated by numerals, that describes a percentage, unless the percentage is a compound modifier for a noun.

Correct  forty-five percent
Incorrect one hundred-percent
Correct  one-hundred-percent-rated modifier
          (compound modifier) (noun)

Hyphens should be used between all fractions.

Example  one-half
Example  fifteen-sixteenths  
Example  twenty-one-thirtieths  

Otherwise, numbers follow the compound modifier convention discussed above whenever the number is only a portion of the compound modifier.

| Correct         | one hundred and twenty-four acres  
|                 | (compound modifier) 
|                 | (noun)  
| Incorrect       | one-hundred-and-twenty-four acres  
| Correct         | five-hundred-million-dollar gain  
| Correct         | fifty-million-per-quarter ratio  

**8.4.14. NUMBERS**

Most numbers used in the body of a bill, including sums of money, should be written out rather than indicated by numerals:

. . . within ten days . . .  
. . . fined not less than twenty-five dollars . . .  
. . . is fixed at one thousand two hundred dollars . . .

Common exceptions to this rule are dates, criminal penalties, formulas, proper nouns containing numerals, and numerals used in tables. In special appropriation bills, it is proper to use the numerical form as follows: "...appropriates $7,031.12..."

The percent symbol (%) should not be used in lieu of percent.

Dates should be depicted as numbers, both for the day and year, whenever specifying a date. The number should be used without the ordinal indicator. All other depictions of days, such as a day of the month, should be written out.

| Correct         | "as of December 31, 2003"  
| Incorrect       | "on December 31 of the application year"  
| Correct         | "on December thirty-first of the application year"  

**8.5. USING PROPER PUNCTUATION**

The use of punctuation in bill drafting is not different from correct formal usage. Some rules to be observed in the use of punctuation include:

- Do not use a colon except to introduce a series of subdivisions;
- In a series of subdivisions following a colon, use a semicolon at the end of each provision;
• Quotation marks should be used around a word being defined in a definitions of convenience section, but should otherwise be avoided. Where used:
  o The comma or period is placed inside a quotation mark, but other punctuation marks are placed outside unless part of the quotation; and
  o Smart quotes are not to be used, only straight quotes.
• In the preamble to a concurrent or simple resolution or in the preamble to a commemoration use a comma after the word "Whereas," and use a semicolon at the end of each clause followed by an "and";
• Only use parentheses to surround numerals in special appropriations bills;
• Use a serial comma - the one that comes before the "and" in a list as follows: a, b, c, and d.

Generally speaking, the use of short, simple sentences is best. Using complex sentences often requires excessive punctuation which can be confusing and lead to possible misinterpretation.

One should not generally use an em-dash. Sentences should not be so complicated as to require the use of em-dashes.

8.6. REFERRING TO EXISTING LAW

References to existing law will usually be to the South Dakota Codified Laws. Within the body of the bill, the abbreviation SDCL is not used. The section symbol (§) or the words "chapter" or "title" should be used as appropriate. References to single and multiple sections should be made as follows:

• One section: § 2-14-1
• Two sections: §§ 2-14-2 and 2-14-2.1
• Three or more consecutive sections: §§ 2-14-3 to 2-14-9, inclusive
• Sections connected by "or": § 2-14-1 or 2-14-2
• Three or more consecutive sections and another section: §§ 2-14-1 to 2-14-9, inclusive, and 2-14-14
• A subdivision: subdivision 2-14-2(18)
  o As noted above, drafters should avoid the specificity created by citing subsections and subdivisions unless necessary to avoid confusion with other subdivisions of the section.
• A subsection: subsection 2-16-6(2)(c)
• Two subdivisions in different sections: subdivisions 2-14-2(18) and 2-16-6(1)
• Two subdivisions in the same section: subdivisions 2-14-2(18) and (19)
• Three or more subdivisions in the same section: subdivisions 2-14-2(18), (19), and (20)
"Section" is used instead of the section symbol (§) whenever "section" begins a sentence.

Although Session Laws are not frequently amended, Session Laws may be cited as "chapter 176, § 1 of the 1999 Session Laws."

Laws passed earlier in the current session are cited as "Senate Bill 61, as previously enacted by the Seventy-third Session of the South Dakota Legislature."

The Constitution should be cited as "S.D. Const., Art. XVIII, § 8." The United States Constitution should be cited as "U.S. Const., Art. IV, § 3, cl. 1."

Sections of federal law and regulation should be cited as precisely as is accurate. United States Code should be cited as "42 U.S.C. § 1983 (Date)." Sections of the Code of Federal Regulations should be cited as "2 C.F.R. § 200.423 (Date)."

If a legal authority needs to be cited other than the above examples, consult The Bluebook for the proper citation format.

Before adopting or incorporating federal law or regulation in the bill, drafters should consider whether the language of the federal law or regulation can simply be inserted into state law without a reference. Any reference to a federal law or federal regulation that incorporates any portion of that law or regulation should include the date of the version of the law or regulation being incorporated so that the reader knows precisely what version of law is being incorporated. Additionally, an unconstitutional delegation of legislative power to the federal or other state government may be found where the past tense (i.e., "as amended" or "as defined") is not used in reference to the incorporated authority. Indep. Cmty. Bankers Ass'n of S.D., Inc. v. State, 346 N.W.2d 737, 744 (S.D. 1984). See examples in Appendix.

Drafters should not cross-reference other states' law to incorporate them into South Dakota law. Instead, reproduce the language of the other state's law, using South Dakota's style and form.

**8.7. USING INTERNAL REFERENCES**

When drafting a bill, avoid the use of internal references. If used, they can complicate the amendment process and cause errors since they can be easily overlooked. Also, remember that drafting any bill that repeals an existing statute requires looking for other existing statutes that refer to the statute being repealed. Those statutes will also need to be amended to reflect the repeal.

Internal references to other sections of the same bill may be cited as "pursuant to section 4 of this Act," but as noted below, these references should be used with caution.
8.8. ESTABLISHING INTEREST RATES

The Legislature has adopted a uniform method of addressing interest rates in the Code. The uniform rates can be found in SDCL 54-3-16 as shown below:

54-3-16. Official state interest rates.

The official state interest rates, as referenced throughout the South Dakota Codified Laws, are as follows:

(1) Category A rate of interest is four and one-half percent per year;
(2) Category B rate of interest is ten percent per year;
(3) Category C rate of interest is twelve percent per year;
(4) Category D rate of interest is one percent per month or fraction thereof;
(5) Category E rate of interest is four percent per year;
(6) Category F rate of interest is fifteen percent per year; and
(7) Category G rate of interest is five-sixth percent per month or fraction thereof.

Please refer to one of these established categories when establishing an interest rate.

See Example 13.21 in the Appendix for an example.

8.9. INTERSTATE COMPACTS

The most frequent exception to the form and style conventions listed above is an interstate compact. Interstate compacts are bodies of law on a specific issue that, taking the form of an agreement, require almost identical style and formatting between the states that sign onto the compact, as a condition of being a party to the compact. Because of this special treatment, LRC generally only places an enacted compact into a single section of the Code.
WORD PREFERENCES

9.1. AVOIDING CERTAIN WORDS

The wording of legislation should be precise, clear, and concise. Avoid both conversational and legalistic expressions. Use shorter, simpler words if there is a choice. The following words or phrases are often incorrectly used in drafting and can usually be replaced by a better word or phrase:

**AVOID**

- absolutely null and void
- aforesaid, aforementioned
  *before-mentioned*
- afforded or accorded
- and/or
- any and all
- as provided in this Act

- at such time as
- at the time of
- at the time of the person’s death
- attorney and counselor at law
- authorize and empower
- be and the same is hereby
- bonds, notes, checks, drafts
  *other evidences of indebtedness*
- bring an action
- can
- carry out
- constitute and appoint
- deal with
- deem
- deemed to be
- deemed to include
- during such time as
- during the course of
- each and every
- either directly or indirectly
- employ (meaning to use)
- enter into a contract with
- every person, all persons
- examine witnesses and hear testimony
- except as otherwise provided
- expend
- fail, refuse, or neglect
- feasible
- following section
- formulate

**PREFERABLE**

- void
- "the," "that," or "those"

- given
- "either A or B, or both,"

- any (or all)
  *(use only if necessary to avoid confusion)*
- when
- when
- when the person dies
- attorney
- authorize
- is
- *evidence of indebtedness*

- sue
- may
- "execute" or "complete"
- appoint
- "address" or "conduct"
- consider
- is
- includes
- while
- during
- each (or every)
  *(delete entirely)*
- use
- contract with
- any person (or each person)
- take testimony
  *(delete entirely)*
- spend
- fail
- practicable
- "section 3 of this Act"
- create
AVOID

for the duration of
for the reason that
forthwith
from and after
from July first
full and complete
give consideration to
give recognition to
have knowledge of
have need of
hereinafter, hereinbefore,
    hereinabove, above, below
    following, preceding

in case
in cases in which
in order to
in the event that
in the interests of
inquire
is able to
is applicable
is authorized to
is binding upon
is defined and shall be construed
to mean
is dependent on
is directed to
is empowered to
is entitled to
is hereby authorized and it
    shall be his duty to
is required to
is unable to
it is a person’s duty to
it is lawful to
law passed
make application
make a determination
make payment
make provision for
matter transmitted through the mail
means and includes

PREFERABLE

during
because
immediately
after
after June thirtieth
full
consider
recognize
know
need

(these are objectionable when referring to the position of a section or other statutory provision; if reference is necessary, specify the chapter, paragraph, section or subsection)

if
if
if
to
for
ask
can
applies
may
binds
means

depends on
shall
may
may
shall
shall
cannot
shall
may
law enacted
apply
“determine” or “decide”
pay
provide for
mail
means
AVOID

member of a partnership
modify
must (in most instances)
no later than June thirtieth
none whatever
not later than
notwithstanding
null and void
occasion (as a verb)
of a technical nature
on or after July first
on a person's own application
ordered, adjudged, and decreed
or, in the alternative, party

per annum
per centum
per day
per foot
period of time
prior to
prosecute its business
provided (conjunction)
provided, however

provision of law
purchase
render (meaning "to give")
render (meaning "to make")
retain
rules and regulations (s)

said
same
shall be construed to mean
shall be deemed to be
shall have the power to
shall not
should

sole and exclusive
State of South Dakota
subsequent to
such
suffer
terminate

PREFERABLE

partner
change
shall
before July first
none
before
(void (redraft to avoid using)

cause
technical
after June thirtieth
upon request
ordered
or
person (unless referring to a party to a suit)
a year
percent
a day
a foot
period
before
conduct its business
"if", "but,
"except," "but," or "however"
or start a new sentence
statute
buy
give
make
keep
rules

(use the singular instead of adding to the end of the word)
"the," "that," or "those"
(appropriate noun or pronoun)
means
is
may
may not
(strike as law is not permissive, or revise to shall)
exclusive
state
after
the
allow
end
AVOID

- to wit
- under the provisions of
- unless and until
- until such time as
- utilize (meaning to use)
- whatsoever
- when, where (as a condition)
- whencesoever
- wheresoever
- whosoever
- years of age or older (younger)

PREFERABLE

- (delete or use "namely")
- pursuant to
- "unless" or "until"
- until
- use
- whatever
- "if"
- "when" or "if"
- where
- whoever
- years or older (younger)

9.2. AVOIDING CERTAIN DESCRIPTORS AND PHRASES

When assigning a duty to a specific person, avoid adding a phrase such as “or his designee” to the assignment. This is unnecessary. The person to whom the duty is assigned may assign the duty to another person unless it is specifically prohibited in the language of the bill. Therefore, for example, if the draft bill is to require “the secretary” to “conduct the meeting,” the drafter needs to write that “only the secretary may conduct the meeting.” Otherwise, “the secretary” is free to assign the conduct of the meeting to someone else.

9.3. USING “PERSON” OR “INDIVIDUAL”

Use “person” to apply a provision to human beings and nonhuman entities such as corporations and governmental bodies.

Use “person” to apply a provision only to human beings and the context clearly indicates that the application only applies to human beings.

Use “individual” to apply a provision only to human beings, and it is not clear from the context that the application only applies to human beings.

9.4. USING “THAT” OR “WHICH”

Use “that” to restrict or limit, or describe or define, the word being modified in the sentence. In other words, use “that” to include information that is necessary to identify the word being modified. "That" introduces a restrictive clause. A restrictive clause is not set off by commas.

**Example:** A fence that conforms with § 43-24-5 is a legal fence.
Use “which” to add nonessential information about the word being modified. Since a good bill draft rarely includes nonessential information, “which” is not often used. "Which" introduces a nonrestrictive clause. The clause is set off by commas.

**Example:** The landowner shall build a fence, which may be a legal fence, within thirty days after receiving a permit.

### 9.5. USING “LESS” OR “FEWER”; "GREATER" OR "MORE"

"Less" and "fewer" are both opposites of "more" and are used when needing to distinguish a greater amount or number from a lesser amount or number. Whether to use "less" or "fewer" depends on the noun that is being modified. If the noun is countable, use "fewer."

Generally, use "more" rather than "greater than." One can use "greater than" in limited circumstances when comparing the degree, level, or number of the items referenced.

### 9.6. USING “WHETHER” OR "WHETHER OR NOT"

When to use only the word "whether," as opposed to the phrase "whether or not," depends on that which is being modified.

If the "whether" clause is the object of a verb, then "or not" is unnecessary.

**Example:** The applicant shall indicate whether the license was revoked.

If the "whether" clause is the object of a preposition, "or not" is unnecessary.

**Example:** The board shall base the decision on whether the error was remedied.

"Whether or not" is necessary when the "whether" clause modifies a verb, or when the phrase "regardless of whether" could logically be used in the sentence.

**Example:** The committee shall vote, whether or not all members are present.
10. CHECK LIST FOR BILL DRAFTING

(after completing draft bill)

ϒ Is the title short, yet clearly expressive of the subject matter of the bill?

ϒ Are definitions provided for those words used in the bill that do not have a fixed and single meaning in normal usage and that might give rise to ambiguity?

ϒ Are words used consistently with their definitions throughout the bill? Are words defined but never used in the bill?

ϒ Is the bill written in a clear style that can be easily understood by those who are affected by it and those who must administer it?

ϒ Are the provisions of the bill logically arranged?

ϒ Is the bill divided into sections and subdivisions in such a way as to achieve maximum clarity?

ϒ Does the bill accomplish its intended purpose?

ϒ Does the bill do more than is intended?

ϒ Does the bill affect existing laws without intending to do so?

ϒ If the bill is intended to affect existing laws, are its provisions properly integrated with those laws so that no conflict will arise in the interpretation or administration?

ϒ Are all statutory references in the bill accurate?

ϒ Are all internal references in the bill correct?

ϒ Are all conflicting statutes specifically repealed or revised?

ϒ If a section is repealed are all cross references to that section removed from existing law?

ϒ Has an effective date other than July 1 been considered? If so, is the effective date included or is the appropriate emergency clause included to make the bill effective upon passage?
11. AMENDMENTS

Amendments allow the alteration of bills and resolutions after introduction. The principles of style and form that apply to bills also apply to amendments.

When drafting amendments, imagine giving instructions to a secretary for alterations in a bill. Although some amendments may be pages long and make dozens of changes, the basics of each amendment never change. Each must identify the following:

- the legislation to be amended (bill number)
- the version of the legislation (printed or engrossed)
- the place in the bill where the change will occur (page number and line number)
- the change itself

Amendments may be offered in committee, on the floor, or in conference committee. Bills, including bill titles, any form of resolution, and previous amendments may be amended.

11.1 AMENDMENT EXAMPLES

The following examples illustrate the variety -- as well as the essential uniformity -- of amendments:

The amendment below illustrates the correct way to amend new material within a bill. Since the new material is not currently in statute, overstrikes and underscores are not used.

\[
\begin{align*}
\text{moved that SB 247 be amended as follows:} \\
\text{On page 3, line 5 of the printed bill, delete "is hereby authorized" and insert "may".}
\end{align*}
\]

The amendment below is commonly called a hoghouse amendment because it deletes the entire content of the existing bill and replaces it with new material.

\[
\begin{align*}
\text{moved that SB 189 be amended as follows:} \\
\text{On the printed bill, delete everything after the enacting clause and insert:}
\end{align*}
\]

\[
\begin{align*}
\text{"Section 1. That § 67-7-31 be AMENDED:} \\
\text{67-7-31. The sunflower, dandelion, wild plum blossom, salsify, yucca, and wild rose are designated honorary state flowers."}
\end{align*}
\]

The amendment below is for a bill that has already been amended in committee. Note that the version of the bill is identified as the "Senate
Transportation committee engrossed bill.” Always be careful to prepare an amendment for the most current version of a bill.

________________ moved that SB 34 be amended to read as follows:

On page 1 of the Senate Transportation committee engrossed bill, delete lines 6 to 13, inclusive.

The amendment below places a new section between two existing lines in the bill rather than at the end. Doing so may be useful in keeping the bill material in a logical sequence, but it can also require internal references to be amended, which can be tricky at times. (See note following.)

________________ moved that SB 271 be amended to read as follows: On page 4 of the printed bill, between lines 14 and 15, insert:

"Section 8. That chapter 70-1 be amended with a NEW SECTION:

The commission shall cooperate with the Department of Agriculture and Natural Resources in performing the duties assigned pursuant to § 70-1-21."

11.2. SECTION RENUMBERING

The bill drafting system used by the LRC automatically renumbers each section when the bill is engrossed. Therefore, when amending entire sections out of or into a bill, never draft amendments in a manner that provides for the renumbering of existing bill sections since that will be done automatically.

11.3. INTERNAL REFERENCES

When drafting an amendment, as with a bill, avoid the use of internal references. If there are numerous internal references in the bill, it is recommended that new sections be added to the end of the bill. If the new sections are not added to the end of the bill, special care must be taken to prepare amendments that reflect all the necessary changes to the section number references in the bill, where internal references are necessary.
12. RULE-MAKING AUTHORITY

12.1. ADMINISTRATIVE PROCEDURES ACT (SDCL CH. 1-26)

In many instances any legislation of substantial scope must be administered either by some agency, board, or commission. The provisions of the Administrative Procedures Act found in SDCL chapter 1-26 should be used to avoid unnecessary repetition and to provide uniformity for the rule-making procedure of state agencies, for hearings, and for appeals to the courts.

12.2. RULES FOR NEW PROGRAMS

If a special appropriations bill establishes a new program, authority to promulgate rules should be considered in the areas of eligibility for funds, audit requirements, or standards for distributing the funds. The important issues to be determined in this area concern how the funds are to be spent and whether additional conditions are to be imposed concerning the distribution of the funds.

12.3. NARROW AND SPECIFIC RULE-MAKING AUTHORITY

Rule-making authority is quasi-legislative authority that is delegated to an executive agency. This delegation can only be done in law. Specifically, administrative rules require proper "general authority to promulgate rules" and the law "implement[ed]" by the rule. SDCL 1-26-6.2. General authority is the "clearly expressed legislative will to delegate the power to adopt the particular rule." The law implemented is "a policy, standard, or rule" that prevents the agency from exercising "unlimited or absolute discretion" in its power to adopt a particular rule.

Authority to allow an agency to promulgate rules should be narrowly drawn. A statement such as "The department may promulgate rules to implement this chapter" is a grant of rule-making power without standards and is an unconstitutional delegation of legislative authority.

Instead, determine what rules the agency needs and draft specific rule-making authority accordingly that cites SDCL chapter 1-26. For an example of general authority, see below:

Section 10. That chapter 73-2 be amended with a NEW SECTION:

The secretary of the Department of Public Safety shall promulgate rules, pursuant to chapter 1-26, in the following areas:

(1) Commercial driver license waivers;

---

2 S.D. Migratory Bird Ass'n v. SD Game, Fish & Parks, 312 N.W.2d 374, 375 (S.D. 1981).
3 State v. Moschell, 2004 S.D. 35, ¶ 17, 677 N.W.2d 551, 559; see also S.D. Migratory Bird Ass'n, supra.
(2) Single license requirements;
(3) Notification requirements and employer responsibilities;
(4) Federal disqualifications and penalties;
(5) Testing and licensing procedures;
(6) Vehicle groups and endorsements;
(7) Required knowledge and skills;
(8) Tests;
(9) Commercial driver license document; and

Notice that the above example merely lists rule-making subject matter. It does not provide limits on the extent of the agency's ability to propound rules regarding that subject matter. An example of such "law implemented" for this rule-making authority is instead provided below:

**Section 11.** That chapter 73-2 be amended with a NEW SECTION:

Any person age sixteen or older and a resident of this state may apply for a commercial driver license on an application form supplied by the Department of Public Safety. The applicant shall submit a form, duly signed and witnessed, certifying that the applicant is of sufficient health and has a driving history that indicates an ability to drive heavy trucks and other restricted motor vehicles. The department shall test applicants on the safe and appropriate operation of heavy trucks and other restricted motor vehicles. The department may provide different endorsements generally recognized by other states for operation of specialty restricted motor vehicles if the minimum requirements to apply and the test for a license is tailored by the department to the safe operation of the specialty vehicle. The department may waive a commercial driver license requirement where the driver has a valid commercial driver license from another state.

The above example guides how the general authority is to be implemented by the agency for many of the general authorities listed in the first example. Some of the language is narrow and specific and some of it is broad, but each sentence provides the scope for administrative rules associated with CDL licensing.
In some cases, law implemented and general authority exist in the same provision, as shown in this statute:

**89-34B-4. Promulgation of safety standards—Considerations.** The commission shall promulgate rules pursuant to chapter 1-26, to establish safety standards, but not more stringent than federal safety standards as provided by § 49-34B-3, for the intrastate transportation of gas and gas pipeline facilities. The standards may apply to the design, installation, inspection, testing, construction, extension, operation, replacement, and maintenance of gas pipeline facilities. Standards affecting the design, installation, construction, initial inspection, and initial testing do not apply to pipeline facilities in existence on the date the standards are adopted by either this state or the federal government. The safety standards shall be practicable and designed to meet the need for pipeline safety. In prescribing the standards, the commission shall consider:

1. Relevant available pipeline safety data;
2. Whether the standards are appropriate for the particular type of pipeline transportation of gas;
3. The reasonableness of any proposed standards;
4. The extent to which the standards will contribute to public safety; and
5. The existing standards established by the secretary of the United States Department of Transportation pursuant to the United States Code, title 49, section 60101 et seq. as amended to January 1, 2019.

### 12.4. AMENDING RULE-MAKING AUTHORITY

A bill may remove or revise an agency's statutory authority to adopt rules. SDCL 1-26-8.1 states that a rule is void if the authority to adopt it is repealed. When drafting legislation to remove an agency's statutory authority to adopt rules, be sure to check what the agency has cited as its "general authority" and "law implemented," and that the intended authority is removed or revised by the legislation. Many agencies have more than one statute authorizing the agency to adopt rules.

### 12.5. AMENDING ADMINISTRATIVE RULE VIA STATUTE

While statutes can amend rule-making authority, statutes should not amend administrative rules directly. Once adopted through the SDCL chapter 1-26 rule-making process, an administrative rule can only be amended, suspended, or repealed through the rulemaking process. SDCL 1-26-6.7. Failure to follow that process renders the amendment, suspension, or repeal unenforceable in court. SDCL 1-26-6.8.
13. APPENDIX

BILL DRAFTING EXAMPLES

Example 13.1 - Amending a section of the Code.

Example 13.2 - Amending a section of a session law.

Example 13.3 - Adding a new section to the Code.

Example 13.4 - Adding a new subdivision to a section of the Code.

Example 13.5 - Removing a subdivision from a section of the Code.

Example 13.6 - Repealing a section of the Code.

Example 13.7 - Repealing multiple sections of the Code.

Example 13.8 - Repealing a section of a session law.

Example 13.9 - Amending or repealing a section of a previously enacted bill in the same session.

Example 13.10 - Declaring an emergency – For immediate preservation of public peace, health, or safety.

Example 13.11 - Declaring an emergency – For support of state government.

Example 13.12 - Establishing a delayed effective date.

Example 13.13 - Establishing a sunset date.

Example 13.14 - Establishing a civil penalty.

Example 13.15 - Referencing federal statutes.

Example 13.16 - Referencing federal rules.

Example 13.17 - Adopting an update to a reference to a federal law.

Example 13.18 - Making a special appropriation.

Example 13.19 - Making a special appropriation associated with construction of capital improvements.
Example 13.20 - Establishing a continuous appropriation in the Code.

Example 13.21 - Establishing an interest rate.

Example 13.22 - Joint resolution.

Example 13.23 - Concurrent resolution.

Example 13.24 - Simple resolution.

Example 13.25 - Resolution of Disapproval.

Example 13.26 - Commemoration
Example 13.1 - Amending a section of the Code.

Section 4. That § 2-7-11 be AMENDED:

2-7-11. The contractor for printing Legislative Research Council shall prepare and include the journal indexes of the Legislature shall deliver them to the Legislative Research Council within ninety days after copy therefor has been furnished. The Legislative Research Council shall provide for the electronic distribution of the daily journals. Price and distribution of the journal indexes shall be determined by a joint select committee of the Legislature at least two hours before the convening of the Legislature on the next legislative day.

NOTE: Material being removed is overstricken and new material is underscored. Overstricken material is shown first.

Example 13.2 - Amending a section of session law.

Section 1. That section 2 of chapter 51 of the 2017 Session Laws be AMENDED:

Section 2. Any real estate and related personal property and improvements on the property which are generally considered a part of the tracts described in section 1 of this Act but not specifically included in the legal descriptions set out in section 1 of this Act may be sold, exchanged, or leased for commercial purposes as provided in this Act as though the property and improvements were specifically described in section 1 of this Act.

NOTE: Session laws need to be amended when revising laws that have not been codified.

Example 13.3 - Adding a new section to the Code.

Section 12. That chapter 1-16B be amended with a NEW SECTION:

Whether or not the bonds are in the form and character of negotiable instruments, the bonds are hereby made negotiable instruments, subject only to provisions of the bonds relating to registration.

NOTE: All new material is underscored.
Example 13.4 - Adding a new subdivision to a section of the Code.

Section 2. That § 37-30A-2 be AMENDED:

37-30A-2. Any telemarketer who makes an unsolicited consumer telephone communication to a residential telephone number shall:

(1) On caller identification technologies, use and display the telemarketer's authentic name or entity and telephone number;

(2) Immediately identify themselves with their true name, the true name of the telemarketer by whom they are employed, and the true name and address of the business on whose behalf the person is soliciting and the purpose of the communication;

(3) Within thirty seconds after beginning the conversation, inquire whether the person being solicited is interested in listening to a sales presentation and immediately discontinue the solicitation if the person being solicited gives a negative response; and

(4) Immediately hang up the telephone at any time during the solicitation that the consumer expresses a disinterest in the good or service offered.

Section 3. That § 37-30A-3 be AMENDED:

37-30A-3. A telemarketer may not:

(1) Engage in unfair or deceptive telephone solicitation;

(2) Place unsolicited consumer telephone communications to any residence which will be received before 9 a.m. or after 9 p.m. at the consumer's local time or place any unsolicited consumer telephone communications on Sunday;

(3) Engage in any conduct which harasses, intimidates, or torments any person in connection with the telephone communication; or

(4) Cause misleading information to be transmitted to users of caller identification technologies or otherwise block or misrepresent the identity of the caller or entity as described in subdivision 37-24-6(16).

NOTE: When subdivision numbers are changed please make sure to check for cross references to those subdivisions.
Example 13.5 - Removing a subdivision from a section of the Code.

Section 5. That § 3-12C-302 be AMENDED:

3-12C-302. Membership in the system shall exclude the following:

(1) All elective officials except justices and judges, unless the official is currently contributing or has previously contributed to the system or the official has elected and is otherwise qualified to become a member of the system;

(2) All personnel in the Department of Labor and Regulation who were employed before July 1, 1980, and who elect to remain participants in the retirement system provided by chapter 61-2;

(3) The governing body of any participating county, municipality, or other political subdivision; and

(4) All personnel employed by the municipality of Sioux Falls before July 1, 2013. However, any person employed before July 1, 2013, who separates from service with the municipality of Sioux Falls and is subsequently rehired by the municipality of Sioux Falls and begins working after June 30, 2013, as a permanent full-time employee shall be a member of the system.

NOTE: When subdivision numbers are changed please make sure to check for cross references to those subdivisions.

Example 13.6 - Repealing a section of the Code.

Section 2. That § 39-39-39 be REPEALED:

This chapter shall be known as the "South Dakota Duck Act."

NOTE: The above is the default setting for repealed statutes.

Example 13.7 - Repealing multiple sections of the Code.

Section 6. That § 98-97-1 be REPEALED:

The coefficient of real property taxation may not be more than twenty-five percent.

Section 7. That § 98-97-2 be REPEALED:
The rate of use tax may not be more than twenty-five percent.

Example 13.8 - Repealing a section of session law.

Section 12. That section 10 of chapter 14 of the 2019 Session Laws be REPEALED.

NOTE: Session laws need to be repealed when revising laws that have not been codified.

Example 13.9 - Amending or repealing a section of a previously enacted bill in the same session.

Section 6. That section 6 of the enrolled version of SB 20 as previously enacted by the Ninety-fifth Session Legislative Assembly, 2020, be AMENDED to read: (show the section with overstrikes and underscores) or be REPEALED.

Example 13.10 - Declaring an emergency – For immediate preservation of public peace, health, or safety.

Section 5. Whereas, this Act is necessary for the immediate preservation of the public peace, health, or safety, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Example 13.11 - Declaring an emergency – For support of state government.

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

Example 13.12 - Establishing a delayed effective date.

Section 5. This Act is effective on July 1, 2022.

Example 13.13 - Establishing a sunset date.

Where the Act establishes new statute and is to be fully repealed at a future
date certain:

Section 35. The provisions of this Act are repealed on June 30, 2023.

Or where an Act that merely amends existing statute is repealed that should then revert to its pre-amendment language:

Section 35. The provisions of this Act are repealed on June 30, 2023, and code sections amended by this Act will revert in word and substance to that which existed immediately prior to the effective date of this Act.

Example 13.14 - Establishing a civil penalty.

Section 12. That chapter 37-25A be amended with a NEW SECTION:

The director may impose a civil penalty against a person named in an order issued under § 37-25A-30 for violation of §§ 37-25A-7, and 37-25A-43 to 37-25A-46, inclusive. The amount of the civil penalty may not exceed five thousand dollars for each act or omission that constitutes the basis for issuing the order. Any civil penalty collected pursuant to this section shall be deposited into the state general fund. The civil penalty may only be imposed:

(1) Following an opportunity for a hearing under § 37-25A-30 if notice delivered to all named persons includes notice of the director's authority to impose a civil penalty under this section; or

(2) As part of an order issued pursuant to subdivision 37-25A-30(1) if the order is stipulated to by each person subject to the civil penalty.
Example 13.15 - Referencing federal statutes.

Section 1. That chapter 38-99 be amended with a NEW SECTION:

   Personal information shall be disclosed for use in connection with matters of motor
   vehicle or driver safety and theft, motor vehicle emissions, motor vehicle product
   alterations, recalls, or advisories, performance monitoring of motor vehicles and
   dealers by motor vehicle manufacturers, and removal of nonowner records from the
   original owner records of motor vehicle manufacturers to carry out the purposes of
   January 1, 2021, the Automobile Information Disclosure Act, 15 U.S.C. § 1231 et seq.,
   as of January 1, 2021, and the Clean Air Act, 42 U.S.C. § 7401 et seq., as of January
   1, 2021, chapters 301, 305, and 321-331 of Title 49, as of January 1, 2021, and
   agency regulations enacted or adopted pursuant to the authority of, or to attain
   compliance with, these acts of Congress.

NOTE: Please cite the version of law being referenced or incorporated to
avoid an unconstitutional delegation of legislative power.

Example 13.16 - Referencing federal rules.

Section 1. That chapter 49-28A be amended with a NEW SECTION:

   The state hereby adopts Title 49 of the Code of Federal Regulations, subtitle B,
   chapter I, subchapter A, part 107 (subparts F and G only) and subchapter C, parts 171
   to 180, inclusive, as amended through January 1, 2020, and Title 49 of the Code of
   Federal Regulations, subtitle B, chapter III, subchapter B, part 387 and parts 390 to
   397, inclusive, as amended through January 1, 2020.

NOTE: Please cite the version of law being referenced or incorporated to
avoid an unconstitutional delegation of legislative power.

Example 13.17 - Adopting an update to a reference to a federal law.

Section 1. That § 10-1-47 be AMENDED:

   10-1-47. The term, United States Internal Revenue Code, or Internal Revenue

**Example 13.18 - Making a special appropriation.**

**Section 1.** There is hereby appropriated from the general fund the sum of $800,000 to the extraordinary litigation fund for purposes of payment of eligible expenses.

**Section 2.** The commissioner of the Bureau of Administration shall approve vouchers and the state auditor shall draw warrants to pay expenditures authorized by this Act.

**Section 3.** Any amounts appropriated in this Act not lawfully expended or obligated shall revert in accordance with the procedures prescribed in chapter 4-8.

**NOTE:** Special appropriation bills should state the office or agency to which the appropriation is made, the amount, the purpose for which it is to be used, and the source.

**Example 13.19 - Making a special appropriation associated with construction of capital improvements (SDCL 5-14-2, 5-14-1(1)).**

**Section 1.** There is hereby appropriated from the general fund the sum of $500,000, and the sum of $4,500,000 of other fund expenditure authority, to the Department of Game, Fish and Parks, for the purpose of building a bison visitors center in Custer State Park.

**Section 2.** The Department of Game, Fish and Parks may accept and expend, in addition to the amounts specified and the purpose stated in section 1 of this Act, any funds obtained from gifts, contributions, or other sources for the purpose.

**Section 3.** The construction shall be under the general charge and supervision of the Bureau of Administration as provided in chapter 5-14.

**Section 4.** The commissioner of the Bureau of Administration or the secretary of the Department of Game, Fish and Parks shall approve vouchers and the state auditor shall draw warrants to pay expenditures authorized by this Act.

**Section 5.** Any amounts appropriated in this Act not lawfully expended or obligated shall
revert in accordance with the procedures prescribed in chapter 4-8.

Example 13.20 - Establishing a continuous appropriation in the Code.

Section 12. That chapter 42-13 be amended with a NEW SECTION:

   The athletic commission fund is created in the state treasury. Any money collected pursuant to this chapter shall be deposited in this fund. Any money deposited in the fund is continuously appropriated to the South Dakota Athletic Commission to be used for the administration of this chapter and for the compensation and expenses of members of the commission. Any interest earned on money in the fund shall be deposited in the fund.

NOTE: A continuous appropriation is discouraged. A fund should be considered for a continuous appropriation if it receives no general fund appropriation and receives revenues through fees or other means to be used for a specific purpose.

Example 13.21 - Establishing an interest rate.

Section 12. That chapter 4-3 be amended with a NEW SECTION:

   Any remittance not received from a county within the time provided by this chapter shall bear interest at the Category A rate of interest as established in § 54-3-16 from the first day of the month on which the remittance became due. The interest shall be credited to the general fund.

NOTE: When needing to establish an interest rate please select one of the interest rates established by SDCL 54-3-16.

Example 13.22 - Joint resolution.

A JOINT RESOLUTION, Proposing and submitting to the voters at the next primary election a new section to Article XI of the Constitution of the State of South Dakota, relating to a three-fifths vote requirement for certain initiated or Legislature-proposed constitutional amendments and initiated or Legislature-referred measures.

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF SOUTH DAKOTA, THE SENATE CONCURRING THEREIN:

Section 1. That at the next primary election held in the state, the following amendment to
Article XI of the Constitution of the State of South Dakota, as set forth in section 2 of this Joint Resolution, which is hereby agreed to, shall be submitted to the electors of the state for approval.

Section 2. That Article XI of the Constitution of the State of South Dakota, be amended with a NEW SECTION to read:

§16. Constitutional amendments or measures--Taxes or fees--Certain funding obligations--Vote required.

Any initiated constitutional amendment, initiated measure, constitutional amendment proposed and submitted to the people by the Legislature, or measure referred to the people by the Legislature that imposes or increases taxes or fees, and any initiated constitutional amendment, initiated measure, constitutional amendment proposed and submitted to the people by the Legislature, or measure referred to the people by the Legislature that obligates the state to appropriate funds of ten million dollars or more in any of the first five fiscal years after enactment, to be annually adjusted for inflation as determined by the Legislature, shall become part of the Constitution or statute only if approved by three-fifths of the votes cast thereon.

Example 13.23 - Concurrent resolution.

A CONCURRENT RESOLUTION, Celebrating the sister-state relationship with Taiwan.

WHEREAS, South Dakota and Taiwan have been in a sister-state relationship since 1984; and

WHEREAS, South Dakota and Taiwan continue to share the same values regarding freedom, democracy, the rule of law, and respect for human rights; and

WHEREAS, in May 2020, Taiwan donated 50,000 surgical masks in support of South Dakota's frontline medical workers, thereby demonstrating its willingness to stand with South Dakota during the global pandemic; and

WHEREAS, in August 2020, Taiwan provided South Dakota's farmers and ranchers with increased access to markets by lifting restrictions on the importation of beef from cattle at least thirty months of age and on the importation of pork having acceptable levels of ractopamine; and

WHEREAS, in September 2019, Taiwan promoted its bilateral trade relationship with South Dakota by sending an agricultural trade mission that purchased more that $576 million of wheat; and
WHEREAS, South Dakota and Taiwan have enjoyed a mutually beneficial bilateral trade relationship in which Taiwan ranks as South Dakota's seventh largest importer country, with anticipation for continued growth; and

WHEREAS, negotiations for a fair and reciprocal Bilateral Trade Agreement between Taiwan and the United States are an important step toward further strengthening bilateral trade and thereby increasing South Dakota's exports to Taiwan; and

WHEREAS, Taiwan, as a responsible stakeholder in the international community, is seeking to meaningfully participate in protecting health and to meaningfully participate in the International Civil Aviation Organization:

NOW, THEREFORE, BE IT RESOLVED, by the House of Representatives of the Ninety-Sixth Legislature of the State of South Dakota, the Senate concurring therein, that South Dakota praises Taiwan's vibrant democracy; supports the signing of a Bilateral Trade Agreement with Taiwan; welcomes the promise of even closer trade and investment ties; supports Taiwan's participation in international organizations that are significant to the health, safety, and well-being of its people; and heartily celebrates the thirty-seventh anniversary of its sister-state relationship with Taiwan.

**Example 13.24 - Simple resolution.**

A RESOLUTION, To show continued support for local control.

WHEREAS, the Legislature prides itself on supporting and promoting the idea of local control; and

WHEREAS, local control is the philosophy where decisions are best left to those persons most effected by those decisions; and

WHEREAS, some issues cannot and should not be handled at the state-level by actions of the Legislature; and WHEREAS, some issues cannot be fixed by a one size fits all solution; and

WHEREAS, different communities will face different impacts and outcomes when attempting to legislate issues on a state-wide level:

NOW, THEREFORE, BE IT RESOLVED, by the House of Representatives of the Ninety-Third Legislature of the State of South Dakota, that the Legislature acknowledges and supports the importance of the philosophy and practice of local control.
Example 13.25 - Resolution of disapproval.

A RESOLUTION OF DISAPPROVAL, Proposing to disapprove Executive Order 2021-03 as set forth on pages 52 to 64, inclusive, of the Senate Journal.

WHEREAS, the Governor of the state of South Dakota has submitted to the Ninety-Sixth Legislature on the fifth day thereof Executive Order 2021-03; and

WHEREAS, Executive Order 2021-03 proposes to abolish the Department of Agriculture and the Department of Environment and Natural Resources and to create a new Department of Agriculture and Natural Resources; and

WHEREAS, agriculture is South Dakota's number one industry and economic driver and deserves a state department whose resources and expertise are devoted to the promotion of the agriculture industry; and

WHEREAS, forty-eight states, including South Dakota, have recognized the necessity of having a stand-alone Department of Agriculture; and

WHEREAS, the current missions of the Department of Agriculture and the Department of Environment and Natural Resources as independent departments serve as a valuable check and balance on the other department; and

WHEREAS, a combination of the two departments will diminish the focus of services to the agricultural producers in the state:

NOW, THEREFORE, BE IT RESOLVED, by the Senate of the Ninety-Sixth Legislature of the State of South Dakota, that Executive Order 2021-03 presented to the Ninety-Sixth Legislature as the same appears in the Senate Journal on pages 52 to 64, inclusive, is hereby disapproved pursuant to S.D. Const., Art. IV, § 8.

Example 13.26 - Commemoration.

A LEGISLATIVE COMMEMORATION, Honoring Rapid City police officers Nick Armstrong and James Ryan McCandless for making the ultimate sacrifice in the line of duty and commending police officer Tim Doyle for his bravery and service to the Rapid City community.

WHEREAS, August 2, 2021, marks the ten-year anniversary of the tragic incident in which police officers Nick Armstrong and James Ryan McCandless were fatally shot during
a routine police stop in Rapid City. The event that took the lives of Armstrong and McCandless shocked and saddened both the Rapid City community and the citizens of South Dakota. Armstrong and McCandless were the first Rapid City police offers killed in the line of duty since 1916; and

WHEREAS, Armstrong, a two-year veteran of the Rapid City Police Department, and McCandless, a six-year veteran, were dedicated and selfless public servants. They protected their community with honor and were deeply loved by family, friends, and colleagues. The years of grief and loss of the families of Armstrong and McCandless should be recognized; and

WHEREAS, Tim Doyle, also a Rapid City police officer injured during the incident, should be commended for his bravery in the line of duty and for his continued service to the Rapid City community:

NOW, THEREFORE, BE IT COMMEMORATED, by the Ninety-Sixth Legislature of the State of South Dakota, that Nick Armstrong and James Ryan McCandless be honored and remembered for selflessly giving their lives in the line of duty.