

## 2021 South Dakota Legislature

**House Bill 1259****AMENDMENT 1259H FOR THE HOUSE BILL**

1 **An Act to make an appropriation for rural access infrastructure improvements and**  
2 **to declare an emergency.**

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

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

5 **31-34-1. Definition.**

6 For the purposes of this Act, the term, small structure, means any small bridge or  
7 culvert with an opening of sixteen square feet or more located on a township road or  
8 county secondary road, excluding bridges as defined in § 31-14-1.

9 **Section 2.** That a NEW SECTION be added:

10 **31-34-2. Fund distribution by state--Inventory--Grants.**

11 Before August 1, 2021, the Department of Revenue shall distribute the sum of  
12 three million dollars on a pro rata basis to each county for the purpose of planning and  
13 completing an inventory of small structures as prescribed by the Department of  
14 Transportation. Before August ~~first of each year for two years, starting in 2022 1, 2022,~~  
15 the Department of Revenue shall distribute a portion of the sum of three million dollars to  
16 each county based on the allocation calculated in accordance with this section for the  
17 purposes described in § 31-34-3. Each county's allocated percentage is calculated by using  
18 the total number of small structures on township roads and county secondary roads  
19 located in a county divided by the sum of all small structures on township roads and county  
20 secondary roads in the state as reported to the Department of Transportation, multiplied  
21 by one hundred. Each county that receives funds from this rural access infrastructure  
22 program shall use the funds in accordance with the provisions of this Act.

23 **Section 3.** That a NEW SECTION be added:

1           **31-34-3. Distribution of funds by county--Permissible uses.**

2           Each county shall establish a rural access infrastructure fund for the deposit of  
3 funds received pursuant to this Act. The funds shall be distributed by the board of county  
4 commissioners for only the following expenses:

5           (1) Engineering, hydrological studies, planning, materials, and other costs as  
6 necessary to plan for and complete the projects;

7           (2) Construction, rehabilitation, or replacement of small structures located in  
8 townships complying with the requirements of this Act;

9           (3) Construction, rehabilitation, or replacement of small structures described in a  
10 county highway and bridge improvement plan that are located on county secondary  
11 highways.

12           The fund may not be used on no maintenance roads or minimum maintenance  
13 roads.

14 **Section 4.** That a NEW SECTION be added:

15           **31-34-4. Application process.**

16           Applications for use of funds allocated pursuant to this Act shall be submitted to  
17 the board of county commissioners on or before January fifteenth on forms prescribed by  
18 the association of county commissioners. The board of county commissioners shall award  
19 the funds no later than March fifteenth. Applications from townships shall be accompanied  
20 by a resolution approved by the township board of supervisors authorizing the application  
21 and any funding commitments made by the township. The township or county share shall  
22 be a minimum of twenty percent of the funds necessary to complete the project.  
23 Applications for county secondary highways shall be submitted by the county highway  
24 superintendent.

25 **Section 5.** That a NEW SECTION be added:

26           **31-34-5. Criteria for award.**

27           The board of county commissioners shall, at a minimum, consider the following  
28 criteria in awarding rural access infrastructure grants:

29           (1) Traffic use of the highway;

30           (2) Public safety;

31           (3) Residential, commercial, recreational, and other uses of the highway;

32           (4) Cost of the project;

33           (5) Length of detour if the project is not completed;

- 1 (6) Number of residences, farms, and ranches served by the project;  
 2 (7) Contribution from township or others to the project and ability of township to fund  
 3 the project without utilizing the rural access infrastructure fund;  
 4 (8) Confirmation the project is not located on a no maintenance or minimum  
 5 maintenance road;  
 6 (9) Hydrological impact;  
 7 (10) If the highway does not terminate into a field entrance, driveway, single residence,  
 8 farm, or ranch;  
 9 (11) The application, or group of applications, that best serves the citizens of this state;  
 10 and  
 11 (12) Any other matters deemed applicable by the board of county commissioners.  
 12 The decisions of the county commissioner shall be final and nonappealable.  
 13 However, a denied application may be submitted in a subsequent year.

14 **Section 6.** That a NEW SECTION be added:

15 **31-34-6. Township eligibility--Plan and annual report--Tax requirement.**

16 A requesting township shall timely file the township small structure improvement  
 17 plan pursuant to § 31-34-7 with the county highway superintendent and an annual report  
 18 pursuant to § 8-10-30 in order to be eligible for the funds. Any township requesting use  
 19 of rural access infrastructure funds pursuant to this Act shall meet at least one of the  
 20 following requirements:

- 21 (1) Impose an annual property tax levy of fifty cents per thousand pursuant to § 10-  
 22 12-28.2; or  
 23 (2) Impose a tax levy opt out pursuant to § 10-13-36.

24 **Section 7.** That a NEW SECTION be added:

25 **31-34-7. Township eligibility--Contents of plan--Updates.**

26 To be eligible to receive funding from the rural access infrastructure fund  
 27 established under this Act, a township shall, each year by November fifteenth, submit to  
 28 the county that township is located in, a township small structure improvement plan and  
 29 any updates shall be made in accordance with this section. The township small structure  
 30 improvement plan shall include:

- 31 (1) One or more maps showing the location of all small structures within the township;  
 32 (2) The location, width, and length of each small structure;  
 33 (3) A report on the condition of each small structure;

- 1       (4) Whether the small structure is posted for load capacity, and if so, what the posted  
2       limit is;  
3       (5) A list of all projects proposed to be undertaken by the township over the next five  
4       years including the location of the project, type of project, source of funding for  
5       the project, estimated cost of the project, and the year the project is proposed to  
6       be completed; and  
7       (6) Such additional items as may be prescribed by the Department of Transportation.

8       **Section 8.** That a NEW SECTION be added:

9               **31-34-8. County use of funds conditioned.**

10              The county commission may use rural access infrastructure funds for the  
11              construction, rehabilitation, or replacement of small structures on county secondary  
12              highways so long as such projects are considered in a similar manner as the small  
13              structures that are located within an organized township.

14       **Section 9.** There is hereby appropriated from the general fund the sum of ~~\$9,000,000~~  
15       ~~\$6,000,000~~ to the Department of Revenue for the purpose of distribution to county rural  
16       access infrastructure funds.

17       **Section 10.** The secretary of the Department of Revenue shall approve vouchers and the  
18       state auditor shall draw warrants to pay expenditures authorized by this Act.

19       **Section 11.** Any amounts appropriated in this Act not lawfully expended or obligated shall  
20       revert in accordance with the procedures prescribed in chapter 4-8.

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