

# State of South Dakota

SEVENTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 1999

592C0603

## HOUSE BILL NO. 1304

Introduced by: Representatives Waltman, Burg, Chicoine, Davis, Fischer-Clemens, Hagen, Haley, Hanson, Kazmerzak, Koetzle, Lockner, Lucas, McIntyre, Patterson, and Volesky and Senators Symens, Dennert, Duxbury, Flowers, Hutmacher, Kloucek, Lange, Lawler, Moore, Olson, and Reedy

1 FOR AN ACT ENTITLED, An Act to repeal certain provisions restricting the disclosure of state  
2 information about private entities.

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

4 Section 1. That § 1-27-28 be repealed.

5 ~~—1-27-28. Terms used in §§ 1-27-29 to 1-27-32, inclusive, mean:~~

6 ~~—(1) "Private entity," any person or entity that is not a public entity as defined by~~  
7 ~~§ 3-21-1(2).~~

8 ~~—(2) "State agency," each association, authority, board, commission, committee, council,~~  
9 ~~department, division, state office, task force, and their officers, legal representatives,~~  
10 ~~consultants, or other agents. The term does not include the Legislature, the Unified~~  
11 ~~Judicial System, any law enforcement agency, or any unit of local government;~~

12 Section 2. That § 1-27-29 be repealed.

13 ~~—1-27-29. A state agency which is authorized by law to investigate, examine, or audit the~~  
14 ~~papers, books, records, financial condition, or other information held by or concerning a private~~  
15 ~~entity may not disclose that it is conducting such an investigation, examination, or audit, except~~

1 as provided by §§ 1-27-28 to 1-27-32, inclusive.

2 Section 3. That § 1-27-30 be repealed.

3 ~~—1-27-30. All information obtained from or concerning the private entity by the state agency~~  
4 ~~as a result of such an investigation, examination, or audit is confidential, except as provided by~~  
5 ~~§§ 1-27-28 to 1-27-32, inclusive.~~

6 Section 4. That § 1-27-31 be repealed.

7 ~~—1-27-31. A state agency may not disclose that it is investigating, examining, or auditing a~~  
8 ~~private entity, and may only disclose the information obtained from such an investigation,~~  
9 ~~examination, or audit as follows:~~

10 ~~—(1)—To the private entity being investigated, examined, or audited;~~

11 ~~—(2)—To those persons whom the private entity has authorized in writing to receive such~~  
12 ~~information;~~

13 ~~—(3)—To the officers, employees, or legal representatives of any other state agency which~~  
14 ~~requests the information in writing for the purpose of investigating and enforcing civil~~  
15 ~~or criminal matters. The written request will specify the particular information desired~~  
16 ~~and the purpose for which the information is requested;~~

17 ~~—(4)—To any administrative or judicial body if the information is directly related to the~~  
18 ~~resolution of an issue in the proceeding, or pursuant to an administrative or judicial~~  
19 ~~order. However, no person may use a subpoena, discovery, or other applicable~~  
20 ~~statutes to obtain such information;~~

21 ~~—(5)—To another state pursuant to an agreement between the State of South Dakota and~~  
22 ~~the other state, but only if the other state agrees to keep the information confidential~~  
23 ~~as set forth in §§ 1-27-28 to 1-27-32, inclusive;~~

24 ~~—(6)—To the attorney general, state's attorney, or any state, federal, or local law~~  
25 ~~enforcement officer;~~

- 1   ~~— (7) — To a federal agency pursuant to the provisions of federal law;~~
- 2   ~~— (8) — To the extent necessary to submit any final reports or filings which are otherwise~~
- 3       ~~required by law to be prepared or filed;~~
- 4   ~~— (9) — For investigations to protect the natural resources of the state; or~~
- 5   ~~— (10) — To comply with federal law, rules, or program delegation requirements.~~
- 6       Section 5. That § 1-27-32 be repealed.
- 7   ~~— 1-27-32. Disclosure of information made confidential by §§ 1-27-28 to 1-27-32, inclusive,~~
- 8   ~~except as provided in § 1-27-31, is a Class 6 felony.~~