

Senate Daily Reader

Thursday, January 18, 2001

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State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

400E0229

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **SB 29** - 01/16/2001

Introduced by: The Committee on State Affairs at the request of the Department of
Corrections

1 FOR AN ACT ENTITLED, An Act to provide that certain offenses are violent offenses for
2 purposes of parole eligibility.

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

4 Section 1. That § 24-15A-32 be amended to read as follows:

5 24-15A-32. Each inmate sentenced to a penitentiary term, except those under a sentence of
6 life or death, or an indeterminate sentence which is not yet set to a term of years by the board,
7 shall have an initial parole date set by the department. This date will be calculated by applying
8 the percentage indicated in the following grid to the full term of the inmate's sentence pursuant
9 to §§ 22-6-1 and ~~22-1-2(9)~~. The following crimes or an attempt to commit, or a conspiracy to
10 commit, any of the following crimes shall be considered a violent crime for purposes of setting
11 an initial parole date: murder, manslaughter, rape, aggravated assault, riot, robbery, burglary in
12 the first or second degree, arson, kidnapping, felony sexual contact as defined in §§ 22-22-7 and
13 22-22-19.1, child abuse, felony sexual contact as defined in § 22-22-7.2, vehicular homicide,
14 vehicular battery, felony stalking as defined in §§ 22-19A-2 and 22-19A-3, photographing a child

1 in an obscene act, felony assault as defined in § 22-18-26, and felony simple assault as defined
 2 in § 22-18-1:

3 Felony Convictions

4	Felony Class	First	Second	Third
5	Nonviolent			
6	Class 6	.25	.30	.40
7	Class 5	.25	.35	.40
8	Class 4	.25	.35	.40
9	Class 3	.30	.40	.50
10	Class 2	.30	.40	.50
11	Class 1	.35	.40	.50
12	Violent			
13	Class 6	.35	.45	.55
14	Class 5	.40	.50	.60
15	Class 4	.40	.50	.65
16	Class 3	.50	.60	.70
17	Class 2	.50	.65	.75
18	Class 1	.50	.65	.75
19	Class B	1.0	1.0	1.0
20	Class A	1.0	1.0	1.0

21 Each inmate shall serve at least sixty days prior to parole release. Inmates with life sentences
 22 are not eligible for parole. An initial parole date through the application of this grid may be
 23 applied to a life sentence only after the sentence is commuted to a term of years. A class A or
 24 B felony commuted to a number of years shall be applied to the Class 1 violent column of the
 25 grid.

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

400E0290

SENATE COMMERCE COMMITTEE ENGROSSED NO. **SB 34 - 01/12/2001**

Introduced by: The Committee on Commerce at the request of the Department of
Commerce and Regulation

1 FOR AN ACT ENTITLED, An Act to allow weights and measures inspections to be performed
2 biennially.

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

4 Section 1. That § 37-21-18 be amended to read as follows:

5 37-21-18. Any person who, ~~by himself, or by his servant or agent or as the servant or agent~~
6 ~~of another person:~~

7 (1) ~~Shall offer or expose~~ Offers or exposes for sale, ~~sell, use~~ sells, uses in buying or
8 selling of any commodity or thing, or for hire or award, or ~~retain~~ retains in his
9 possession a false weight or measure or measuring or weighing device, or any weight
10 or measure or weighing or measuring device ~~which~~ that has not been sealed by the
11 Division of Commercial Inspection and Regulation within ~~one year~~ two years; ~~or~~

12 (2) ~~Shall dispose~~ Disposes of any condemned weight, measure, or weighing or measuring
13 device contrary to law; ~~or~~

14 (3) ~~Shall remove~~ Removes any tag placed thereon by the Division of Commercial

- 1 Inspection and Regulation; ~~or~~
- 2 (4) ~~Shall sell or offer or expose~~ Sells, offers, or exposes for sale less than the quantity ~~he~~
- 3 the person represents; ~~or~~
- 4 (5) ~~Shall take or attempt~~ Takes or attempts to take more than the quantity ~~he~~ the person
- 5 represents, when as the buyer, ~~he~~ the person furnished the weight, measure, or
- 6 weighing or measuring device by means of which the amount of the commodity is
- 7 determined; ~~or~~
- 8 (6) ~~Shall keep~~ Keeps for the purpose of sale, ~~offer or expose~~ offers or exposes for sale,
- 9 or ~~sell~~ sells any commodity in a manner contrary to law; ~~or~~
- 10 (7) ~~Shall violate~~ Violates any provision of chapters 37-20 to 37-22, inclusive, for which
- 11 a specific penalty has not been provided; or
- 12 (8) ~~Shall sell or offer~~ Sells, offers to sell or use or have, uses, or has in his possession for
- 13 the purpose of selling or using any device or instrument to be used, or calculated to
- 14 falsify any weight or measure;
- 15 is guilty of a Class 2 misdemeanor.

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

400E0306

SENATE COMMERCE COMMITTEE ENGROSSED NO. **SB 35** - 01/16/2001

Introduced by: The Committee on Commerce at the request of the Department of
Commerce and Regulation

1 FOR AN ACT ENTITLED, An Act to require insurance producers to sell only investments
2 authorized pursuant to certain provisions.

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

4 Section 1. That chapter 58-33 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 No insurance producer may offer or sell any security in this state unless the insurance
7 producer is properly registered or exempt from registration pursuant to chapter 47-31A.

8 Section 2. That chapter 58-33 be amended by adding thereto a NEW SECTION to read as
9 follows:

10 No insurance producer may offer or sell any security in this state unless the security is
11 registered or exempt from registration pursuant to chapter 47-31A.

12 Section 3. That chapter 58-33 be amended by adding thereto a NEW SECTION to read as
13 follows:

14 No insurance producer may offer or sell any business opportunity in this state unless the

1 business opportunity is registered or exempt from registration under chapter 37-25A.

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

400E0302

SENATE COMMERCE COMMITTEE ENGROSSED NO. **SB 36** - 01/16/2001

Introduced by: The Committee on Commerce at the request of the Department of
Commerce and Regulation

1 FOR AN ACT ENTITLED, An Act to revise nonrenewal and preexisting condition provisions
2 and to correct outdated references for health insurance plans.

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

4 Section 1. That § 58-17-69 be amended to read as follows:

5 58-17-69. For purposes of §§ 58-17-66 to 58-17-87, inclusive, the term, creditable coverage,
6 means benefits or coverage provided under:

7 (1) An employer-based health insurance or health benefit arrangement that provides
8 benefits similar to or exceeding benefits provided under the basic health benefit plan
9 or an employee welfare benefit plan as defined in section 3(1) of the Employee
10 Retirement Income Security Act of 1974 as adopted by the director pursuant to
11 chapter 1-26, to the extent that the plan provides directly or through insurance,
12 reimbursement or otherwise to employees or their dependents medical care for the
13 diagnosis, cure, mitigation, treatment, or prevention of disease, or amounts paid for
14 the purpose of affecting any structure or function of the body and amounts paid for

- 1 the transportation primarily for and essential to medical care;
- 2 (2) An individual health benefit plan, including coverage issued by any health maintenance
3 organization or pre-paid hospital or medical services plan that provides benefits
4 similar to or exceeding the benefits provided under the basic health benefit plan as
5 approved pursuant to ~~§ 58-18B-32~~ chapter 1-26, but excluding limited benefit plans
6 and dread disease plans;
- 7 (3) Medicare or medicaid;
- 8 (4) Chapter 55 of Title 10, United States Code;
- 9 (5) A medical care program of the Indian Health Service or of a tribal organization;
- 10 (6) A state health benefits risk pool;
- 11 (7) A health plan offered under Chapter 89 of Title 5, United States Code;
- 12 (8) A public health plan;
- 13 (9) A health benefit plan under section 5(e) of the Peace Corps Act (22 U.S.C. 2504(e));
- 14 (10) A church plan;
- 15 (11) A college plan; or
- 16 (12) A short term or limited duration plan.

17 Section 2. That § 58-17-84 be amended to read as follows:

18 58-17-84. Any health benefit plan covering individuals shall comply with the following
19 provisions:

- 20 (1) No health benefit plan may deny, exclude, or limit benefits for a covered individual for
21 claims incurred more than twelve months following the effective date of the person's
22 coverage due to a preexisting condition. No health benefit plan may define a
23 preexisting condition more restrictively than:
- 24 (a) A condition that would have caused an ordinarily prudent person to seek

1 medical advice, diagnosis, care, or treatment during the twelve months
2 immediately preceding the effective date of coverage;

3 (b) A condition for which medical advice, diagnosis, care, or treatment was
4 recommended or received during the twelve months immediately preceding the
5 effective date of coverage; or

6 (c) A pregnancy existing on the effective date of coverage;

7 (2) A health benefit plan shall waive any time period applicable to a preexisting condition
8 exclusion or limitation period with respect to particular services for the aggregate
9 period of time a person was previously covered by creditable coverage, excluding
10 limited benefit plans and dread disease plans that provided benefits with respect to
11 such services, if the creditable coverage was continuous to a date not more than
12 sixty-three days before the application for the new coverage. A period of time a
13 person was previously covered may not be aggregated if there was a break in
14 coverage of sixty-three days or more. The plan shall count a period of creditable
15 coverage without regard to the specific benefits covered under the plan, unless the
16 plan elects to credit it based on coverage of benefits within several classes or
17 categories of benefits specified in rules adopted pursuant to chapter 1- 26, by the
18 director;

19 (3) A health maintenance organization which does not utilize a preexisting waiting period
20 may use an affiliation period in lieu of a preexisting waiting period. No affiliation
21 period may exceed two months in length. No premium may be charged for any
22 portion of the affiliation period. If the health maintenance organization utilizes neither
23 a preexisting waiting period nor an affiliation period, the health maintenance
24 organization may use other criteria designed to avoid adverse selection provided that

1 those criteria are approved by the director;

2 (4) Genetic information may not be treated as a condition for which a preexisting
3 condition exclusion may be imposed in the absence of a diagnosis of the condition
4 related to such information; and

5 (5) A carrier may not exclude coverage for a preexisting condition which arose after a
6 person began creditable coverage if there was not a break in coverage which exceeded
7 sixty-three days.

8 For purposes of this section, the effective date of coverage is the first day the person became
9 covered for either accidents or sicknesses.

10 Section 3. That § 58-17-85 be amended to read as follows:

11 58-17-85. If a person has an aggregate of at least twelve months of creditable coverage, the
12 carrier shall accept such person for coverage under a health benefit plan, which contains benefits
13 which are equal to or exceed the benefits contained in the basic plan that was approved pursuant
14 to ~~§ 58-18B-32~~ and adopted by rule by the director pursuant to chapter 1-26 and the maximum
15 lifetime maximum benefit of the coverage is not less than one million dollars if the person applies
16 within sixty-three days of the date of losing prior creditable coverage. In addition to the plan
17 which equals or exceeds the basic coverage, the carrier shall also offer to the eligible person, the
18 individual standard plan as approved and adopted by rule by the director or a plan with benefits
19 that exceed the standard plan. No carrier is required to issue further individual health benefit
20 coverage under §§ 58-17-68 to 58-17-87, inclusive, if the individual health benefit plans issued
21 to high-risk individuals constitute two percent or more of that carrier's earned premium on an
22 annual basis from individual health benefit plans covered by §§ 58-17-66 to 58-17-87, inclusive.
23 Each carrier who meets the two percent earned premium threshold shall report within thirty days
24 to the director in a format prescribed by the director. If the director determines that all carriers

1 in the individual market have met the two percent threshold, the threshold shall, upon order of
2 the director, be expanded an additional two percent. The threshold shall be expanded in
3 additional two percent increments if all carriers in the individual market meet the previous
4 threshold. The director may promulgate rules pursuant to chapter 1-26 to determine which
5 individual policies may be used to determine the two percent threshold, the procedures involved,
6 and the applicable time frames. In making that determination, the director shall develop a method
7 designed to limit the number of high-risk individuals to whom any one carrier may be required
8 to issue coverage. No carrier is required to provide coverage pursuant to this section if:

- 9 (1) The applicant is eligible for continuation of coverage under an employer plan;
- 10 (2) The applicant's creditable coverage is a conversion plan from an employer group plan;
- 11 (3) The person is covered or eligible to be covered under creditable coverage or lost
12 creditable coverage due to nonpayment of premiums; or
- 13 (4) The person loses coverage under a short term or limited duration plan.

14 Any person who has exhausted continuation rights and who is eligible for conversion or other
15 individual or association coverage has the option of obtaining coverage pursuant to this section
16 or the conversion plan or other coverage. A person who is otherwise eligible for the issuance of
17 coverage pursuant to this section may not be required to show proof that coverage was denied
18 by another carrier.

19 Section 4. That § 58-17-97 be amended to read as follows:

20 58-17-97. Any accident and sickness policy or certificate subject to the provisions of this
21 chapter, other than a health benefit plan as defined in ~~subdivision 58-17-66(8)~~ § 58-17-66, shall
22 comply with the following provisions:

- 23 (1) No policy or certificate may deny, exclude, or limit benefits for a covered individual
24 for claims incurred more than twelve months following the effective date of the

1 person's coverage due to a preexisting condition;

2 (2) No policy or certificate may define a preexisting condition more restrictively than:

3 (a) A condition that would have caused an ordinarily prudent person to seek
4 medical advice, diagnosis, care, or treatment during the twelve months
5 immediately preceding the effective date of coverage;

6 (b) A condition for which medical advice, diagnosis, care, or treatment was
7 recommended or received during the twelve months immediately preceding the
8 effective date of coverage; or

9 (c) A pregnancy existing on the effective date of coverage.

10 Section 5. That § 58-18-46 be amended to read as follows:

11 58-18-46. Except as provided in §§ 58-18-42 to 58-18-49, inclusive, a health benefit plan
12 subject to this chapter is renewable to all eligible employees and dependents at the option of the
13 employer, except for the following reasons:

14 (1) The employer has failed to pay premiums or contributions in accordance with the
15 terms of the health insurance coverage or the insurer has not received timely premium
16 payments;

17 (2) Fraud or intentional misrepresentation of material fact by the employer;

18 (3) Noncompliance with the carrier's employer contribution or participation requirements;

19 (4) The number of individuals covered under the plan is less than the number or
20 percentage of eligible individuals required under the plan;

21 ~~(5) The employer is no longer actively engaged in the business in which it was engaged
22 on the effective date of the plan;~~

23 ~~(6)~~ In the case of a health insurance issuer that offers health insurance coverage in the
24 market through a network plan, there is no longer any enrollees in connection with

1 the plan who live, reside, or work in the service area of the issuer or in the area for
2 which the issuer is authorized to do business and the issuer would deny enrollment
3 with respect to the plan as provided for in § 58-18B-37;

4 ~~(7)~~(6) The employer carrier elects to nonrenew all of its health benefit plans delivered or
5 issued for delivery to employers in this state;

6 ~~(8)~~(7) In the case of health insurance coverage that is made available only through one or
7 more bona fide associations, the membership of an employer in the association (on the
8 basis of which the coverage is provided) ceases but only if the coverage is terminated
9 uniformly without regard to any health status-related factor relating to any covered
10 individual; or

11 ~~(9)~~(8) If the issuer decides to discontinue offering a particular type of group health insurance
12 offered in the group market, coverage of such type may be discontinued if:

13 (a) The issuer provides notice to each employer provided coverage of this type in
14 such market (and any participant and beneficiary covered under such coverage)
15 of the discontinuation at least ninety days prior to the date of the
16 discontinuation of the coverage;

17 (b) The issuer offers to each employer provided coverage of this type in such
18 market, the option to purchase all other health insurance coverage currently
19 being offered by the issuer to a group health plan in such market;

20 (c) In exercising the option to discontinue coverage of this type and in offering the
21 option of coverage under subsection (b), the issuer acts uniformly without
22 regard to the claims experience of those employers or any health status-related
23 factor relating to any participant or beneficiary covered or any new participant
24 or beneficiary who may become eligible for such coverage.

1 If a carrier nonrenews a health benefit plan pursuant to this section, the director shall assist
2 affected employers in finding replacement coverage.

3 Section 6. That chapter 58-18 be amended by adding thereto a NEW SECTION to read as
4 follows:

5 Any accident and sickness plan or certificate other than a health benefit plan is subject to
6 subdivision 58-18-45(1).

7 Section 7. That § 58-18-45 be amended to read as follows:

8 58-18-45. Health benefit plans shall comply with the following provisions:

- 9 (1) No health benefit plan may deny, exclude, or limit benefits for a covered individual for
10 claims incurred more than twelve months following the effective date of the
11 individual's coverage due to a preexisting condition. No health benefit plan may define
12 a preexisting condition more restrictively than a condition for which medical advice,
13 diagnosis, care, or treatment was recommended or received during the six months
14 immediately preceding the effective date of coverage;
- 15 (2) A health benefit plan shall waive any time period applicable to a preexisting condition
16 exclusion or limitation period for the aggregate period of time an individual was
17 previously covered by creditable coverage that provided benefits with respect to such
18 services, if the creditable coverage was continuous to a date not more than sixty-three
19 days prior to the effective date of the new coverage. The waiver for prior creditable
20 coverage also applies to late enrollees. A period of time a person was previously
21 covered may not be aggregated if there was a break in coverage of sixty-three days
22 or more. The plan shall count a period of creditable coverage, without regard to the
23 specific benefits covered under the plan, unless the plan elects to credit it based on
24 coverage of benefits within several classes or categories of benefits specified in rules

1 adopted by the director. A carrier may not exclude coverage for a preexisting
2 condition which arose after a person began creditable coverage if there was not a
3 break in coverage which exceeded sixty-three days;

4 (3) A health benefit plan may exclude coverage for late enrollees for the greater of
5 eighteen months or for an eighteen-month preexisting condition exclusion. However,
6 if both a period of exclusion from coverage and a preexisting condition exclusion are
7 applicable to a late enrollee, the combined period may not exceed eighteen months
8 from the date the individual enrolls for coverage under the health benefit plan;

9 (4) Genetic information may not be treated as a condition for which a preexisting
10 condition exclusion may be imposed in the absence of a diagnosis of the condition
11 related to such information;

12 (5) A health maintenance organization which does not utilize a preexisting waiting period
13 may use an affiliation period in lieu of a preexisting waiting period. No affiliation
14 period may exceed two months in length. No premium may be charged for any
15 portion of the affiliation period. If the health maintenance organization utilizes neither
16 a preexisting waiting period nor an affiliation period, the health maintenance
17 organization may use other criteria designed to avoid adverse selection provided that
18 those criteria are approved by the director. In the case of a late enrollee who is subject
19 to an affiliation period, the affiliation period may not exceed three months.

20 For purposes of this section, the effective date of coverage is the first day the person became
21 covered for either accidents or sicknesses.

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

400E0308

SENATE COMMERCE COMMITTEE ENGROSSED NO. **SB 37** - 01/16/2001

Introduced by: The Committee on Commerce at the request of the Department of
Commerce and Regulation

1 FOR AN ACT ENTITLED, An Act to revise certain requirements for continuation and
2 conversion of employer health plans.

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

4 Section 1. That § 58-18C-1 be amended to read as follows:

5 58-18C-1. Every policy of group health insurance providing benefits for hospital or medical
6 expenses delivered or issued for delivery in this state, by a commercial health insurance company,
7 by a nonprofit medical and surgical service plan corporation, by a nonprofit hospital service plan
8 corporation, by a health maintenance organization, or by any other similar mechanism shall, in
9 addition to the provisions required by law, include the right of each employee, upon their
10 employer ceasing operations and the termination of the policy or contract, to have the coverage
11 continue for themselves and their eligible dependents, effective as of the date of loss of the
12 previous group coverage, for a period of ~~eighteen~~ twelve months for which the employee shall
13 be financially responsible. In addition, if an employer either fails to submit premium payment to
14 the insurance company resulting in loss of coverage to its employees or cancels the coverage and

1 does not notify the employees of such loss of coverage, the employees and their dependents are
2 then eligible for continuation pursuant to this section if election is made within sixty days of the
3 date of their being notified of the loss of coverage. The employer shall provide notice of any
4 nonpayment of premiums or cancellation of coverage to employees as soon as reasonably
5 possible but no later than ten days after the date of cancellation. If the employer fails to notify
6 the employees and their dependents of the termination of coverage within ten days, the
7 employees and dependents may not be denied coverage by the insurer provided timely election
8 is made after actual receipt of notice. Whether notice is provided or not, the election period for
9 continuation of coverage may expire ninety days from the date the group coverage terminated.
10 Any premiums due for the continuation of coverage may be required to be paid by the employee
11 or dependent as a condition of providing continuation coverage.

12 Section 2. That § 58-18-7.4 be amended to read as follows:

13 58-18-7.4. An employee or qualified beneficiary who has the right under the group policy to
14 ~~continue or convert his~~ the group accident or health insurance plan shall be issued, without
15 evidence of insurability, upon application to the company ~~within thirty days of receipt of due~~
16 ~~notice of termination of coverage;~~ during the one hundred eighty days prior to expiration of
17 coverage under continuation and upon payment of the appropriate premium, a policy of accident
18 or health insurance. The conversion coverage shall provide the benefits which are ~~most nearly~~
19 ~~similar to the existing coverages. Any and all probationary or waiting periods set forth in such~~
20 ~~policy shall be considered as being met to the extent coverage was in force under the prior policy~~
21 available to others qualified for conversion under the policy.

22 Section 3. That chapter 58-18 be amended by adding thereto a NEW SECTION to read as
23 follows:

24 Continuation coverage shall be the same coverage as is available to any similarly situated

1 beneficiary under the plan with respect to whom a qualifying event has not occurred. If coverage
2 is modified under the plan for any group of similarly situated beneficiaries who are not under
3 continuation, such coverage shall also be modified for those continuing coverage in the same
4 manner as for all individuals who are qualified beneficiaries under the plan pursuant to the
5 continuation requirements of this chapter in connection with such group.

6 Section 4. That chapter 58-18 be amended by adding thereto a NEW SECTION to read as
7 follows:

8 No new probationary or waiting period may be applied to the continuation or conversion
9 coverage.

10 Section 5. That chapter 58-18 be amended by adding thereto a NEW SECTION to read as
11 follows:

12 Nothing in sections 2 to 16, inclusive, of this Act applies to or qualifies any person for any
13 continuation or conversion right available in chapter 58-18C.

14 Section 6. That § 58-18-7.5 be amended to read as follows:

15 58-18-7.5. Every health benefit program that is self-insured, and every policy of group health
16 insurance providing benefits for hospital or medical expenses delivered or issued for delivery in
17 this state, by a commercial health insurance company, by a nonprofit medical and surgical service
18 plan corporation, by a nonprofit hospital service plan corporation, by a health maintenance
19 organization or by any other similar mechanism shall, in addition to the provisions required by
20 law, include that employees have a right upon leaving employment or the termination of the
21 coverage by the insurer, other than the termination of the policy or contract itself and the
22 replacement thereof by similar coverage, to have the coverage continue for themselves and their
23 eligible dependents for a period of eighteen months for which the employee shall be financially
24 responsible. In the case of a qualified beneficiary who is determined under title II or XVI of the

1 Social Security Act (42 U.S.C. 401) to have been disabled at any time during the first sixty days
2 of continuation coverage, coverage can be continued for twenty-nine months. Nonpayment of
3 the premium by the employer is termination by the employer.

4 Section 7. That § 58-18-7.6 be repealed.

5 ~~—58-18-7.6. Each plan of benefits, contract or policy stated in § 58-18-7.5 shall also provide~~
6 ~~an employee or qualified beneficiary with the right, upon the employee leaving employment or~~
7 ~~the termination of coverage under the group by the insurer, other than the termination of~~
8 ~~coverage and replacement thereof by similar coverage or at the end of continuation, to an~~
9 ~~individual conversion policy or contract without additional underwriting restrictions. The~~
10 ~~conversion policy shall consist of a plan of individual coverage that closely approximates the~~
11 ~~coverage provided under the group, and shall be renewable at the option of the insured.~~
12 ~~Nonpayment of premium by the employer is termination by the employer.~~

13 Section 8. That § 58-18-7.7 be repealed.

14 ~~—58-18-7.7. Continuation and conversion shall only be available to an employee or member~~
15 ~~who has been continuously insured under the group policy and for similar benefits under any~~
16 ~~group policy which it replaced during the entire six-month period ending with such termination.~~

17 Section 9. That § 58-18-7.8 be repealed.

18 ~~—58-18-7.8. Written notice of termination of group coverage shall be provided by the~~
19 ~~employer to each employee having coverage within ten days of termination, unless uninterrupted~~
20 ~~and continuous group coverage is otherwise provided to the group. The notice shall contain such~~
21 ~~information as required by the director.~~

22 Section 10. That § 58-18-7.9 be repealed.

23 ~~—58-18-7.9. Any employee or qualified beneficiary may exercise his right to conversion or~~
24 ~~continuation within thirty days of receipt of due notice of termination of coverage of the group~~

1 ~~and upon payment of premiums from the date of termination.~~

2 Section 11. That § 58-18-7.10 be repealed.

3 ~~—58-18-7.10. The conversion policy shall cover the employee or member and a qualified~~
4 ~~beneficiary who was covered by the group policy on the date of termination of insurance. At the~~
5 ~~option of the insurer, a separate conversion policy may be issued to cover any dependent.~~

6 Section 12. That § 58-18-7.11 be amended to read as follows:

7 58-18-7.11. No insurer may be required to offer or renew a continuation or conversion policy
8 covering any person if:

- 9 (1) The person is covered for similar benefits by another individual or group policy;
- 10 (2) Similar benefits are provided for or available to such person, by reason of any state
11 or federal law, except any person who becomes entitled to Medicare on or before
12 continuation is elected or who is covered under another group plan on or before
13 continuation is elected;
- 14 (3) The benefits under sources of the kind referred to in subdivision (1) for such person
15 or benefits provided or available under sources of the kind referred to in subdivision
16 (2) for such person, together with the continued or converted policy's benefits, would
17 result in overinsurance according to the insurer's standards for overinsurance;
- 18 (4) There has been fraud or material misrepresentation in applying for any benefits under
19 continued or converted policy;
- 20 (5) The person failed to pay any required contribution; ~~or~~
- 21 (6) Cancellation of all similar insurance policies in the entire state;
- 22 (7) For cause on the same basis, the plan could terminate the coverage of a similarly
23 situated active employee; or
- 24 (8) Termination of employment for gross misconduct.

1 Section 13. That § 58-18-7.12 be amended to read as follows:

2 58-18-7.12. Subject to the conditions set forth for continuation in §§ 58-18-7 to 58-18-7.11,
3 inclusive, a qualified beneficiary may continue his coverage for a total of thirty-six months under
4 the following conditions:

- 5 (1) If at the death of the employee or member, the qualified beneficiary's coverage under
6 the group policy terminates by reason of such death;
- 7 (2) If a qualified beneficiary ceases to be a qualified family member under the group
8 policy, while the employee or member remains insured under the policy;
- 9 (3) Any medicare ineligible qualified beneficiary of a current employee; ~~or~~
- 10 (4) The qualified beneficiary of an employee who is eligible for medicare; or
- 11 (5) Divorce or legal separation of employee.

12 Section 14. That § 58-18-7.13 be amended to read as follows:

13 58-18-7.13. The premium for the conversion policy shall be determined in accordance with
14 the insurer's table of premium rates applicable to the age and class of risk for each person to be
15 covered under that policy and to the type and amount of insurance provided. The premium for
16 a continuation policy may not be greater than one hundred two percent of the group rate under
17 which a person is covered. For any month after the eighteenth month, the premium amount may
18 not exceed one hundred fifty percent of the applicable premium.

19 Section 15. That § 58-18-7.16 be repealed.

20 ~~58-18-7.16. Terms used in §§ 58-18-7 to 58-18-7.15, inclusive, mean:~~

- 21 ~~(1) "Leaving employment," the involuntary or voluntary reduction of hours, layoffs,~~
22 ~~self-termination of employment, or any other reason for termination of employment;~~
- 23 ~~(2) "Qualified beneficiary," spouse, divorced or separated spouse or dependents.~~

24 Section 16. That § 58-18-79 be amended to read as follows:

1 58-18-79. If any federal standards are in place which require additional steps to meet those
2 standards beyond what is required by this chapter, the director may promulgate rules pursuant
3 to chapter 1-26 to require the offering of health insurance plans, the underwriting criteria that
4 may be utilized for such health insurance plans, the type and scope of preexisting waiting periods
5 and creditable coverage, the standards for nonrenewability of coverage, and other requirements
6 related to the availability of health insurance to employers and their employees and dependents
7 in this state in order to minimally meet the federal standards.

8 The director may also promulgate rules, pursuant to chapter 1-26, pertaining to employer
9 health benefit plans in the areas of:

- 10 (1) Definition of terms;
- 11 (2) The issuance of certificates of coverage upon loss of health insurance coverage;
- 12 (3) Determinations relative to the application of waiting periods;
- 13 (4) Special enrollment periods;
- 14 (5) Treatment of late enrollees;
- 15 (6) Preexisting condition and other waiting periods;
- 16 (7) Breaks in coverage;
- 17 (8) Affiliation periods;
- 18 (9) Nondiscrimination standards;
- 19 (10) Notices;
- 20 (11) Renewal rights;
- 21 (12) Dates of enrollment;
- 22 (13) Creditable coverages including methods of crediting coverage;
- 23 (14) Risk spreading mechanisms; ~~and~~
- 24 (15) Requirements pertaining to mental health benefit levels in employer group plans other

- 1 than small employer group plans; and
- 2 (16) Continuation and conversion requirements.

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

400E0226

SENATE EDUCATION COMMITTEE ENGROSSED NO. **SB 63** - 01/16/2001

Introduced by: The Committee on Education at the request of the Department of
Education and Cultural Affairs

1 FOR AN ACT ENTITLED, An Act to revise the definition of illegal substances for purposes of
2 revoking or refusing to issue a certificate to a teacher or administrator.

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

4 Section 1. That § 13-42-10 be amended to read as follows:

5 13-42-10. The secretary of the Department of Education and Cultural Affairs may revoke
6 the certificate of any teacher or administrator, or refuse to issue a certificate to an applicant, for
7 such period of time as ~~he shall deem~~ the secretary considers advisable, if such person has been
8 convicted of any crime involving moral turpitude, including traffic in ~~narcotics~~ either controlled
9 substances or marijuana, or both. Suspension of the sentence is not cause to affect this action.

10 Nor may suspended imposition of a sentence for violation of subdivision 22-22-1(1), subdivision
11 22-22-1(5), or § 22-22-7 be cause to affect this action. Proof of such conviction and sentence
12 shall consist of a duly certified copy of the court record.