

Senate Daily Reader

Tuesday, January 23, 2001

Bills Included				
SB 1	SB 8	SB 29	SB 46	SB 64

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

175E0028

SENATE JUDICIARY COMMITTEE ENGROSSED NO.

SB 1 - 01/19/2001

Introduced by: Senators Madden and Ham and Representatives McCoy and Slaughter at
the request of the Interim Judiciary Committee

1 FOR AN ACT ENTITLED, An Act to require written informed consent before genetic testing.

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

3 Section 1. Terms used in this Act mean:

4 (1) "Genetic information," information derived from a genetic test about a gene, gene
5 product, or inherited characteristic;

6 (2) "Genetic test," a test of human DNA, RNA, chromosomes, or genes performed in
7 order to identify the presence or absence of an inherited variation, alteration, or
8 mutation which is associated with predisposition to disease, illness, impairment, or
9 other disorder. Genetic test does not mean a routine physical measurement; a
10 chemical, blood, or urine analysis; a test for drugs or HIV infection; any test
11 commonly accepted in clinical practice; or any test performed due to the presence of
12 signs, symptoms, or other manifestations of a disease, illness, impairment, or other
13 disorder;

14 (3) "Predictive genetic test," a genetic test performed for the purpose of predicting the

1 future probability that the person tested will develop a genetically related disease or
2 disability.

3 Section 2. No person may order or perform a predictive genetic test without first obtaining
4 the written, informed consent of the person to be tested. For purposes of this section, written,
5 informed consent consists of a signed writing executed by the person to be tested or the legally
6 authorized representative of the person to be tested that includes, at a minimum, all of the
7 following:

- 8 (1) The nature and purpose of the predictive genetic test;
- 9 (2) The effectiveness and limitations of the predictive genetic test;
- 10 (3) The implications of taking the predictive genetic test, including, the medical risks and
11 benefits;
- 12 (4) The future uses of the sample taken from the person tested in order to conduct the
13 predictive genetic test and the information obtained from the predictive genetic test;
- 14 (5) The meaning of the predictive genetic test results and the procedure for providing
15 notice of the results to the person tested; and
- 16 (6) A listing of who will have access to the sample taken from the person tested in order
17 to conduct the predictive genetic test and the information obtained from the predictive
18 genetic test, and the person's right to confidential treatment of the sample and the
19 information.

20 Section 3. If a person to be tested or the person's legally authorized representative signs a
21 copy of the informed consent form developed pursuant to section 2 of this Act, the person
22 obtaining the informed consent shall give the person to be tested a copy of the signed informed
23 consent form and shall include the original signed informed consent form in the medical record
24 of the person tested.

1 Section 4. Nothing in this Act alters the ability to perform genetic tests done in pursuance
2 of a lawful criminal investigation or court order.

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

376E0049 **SENATE AGRICULTURE AND NATURAL RESOURCES**
COMMITTEE ENGROSSED NO. SB 8 - 01/19/2001

Introduced by: Senators Symens, Diedtrich (Elmer), and Vitter and Representatives Fryslie and Hanson (Gary) at the request of the Interim Agriculture and Natural Resources Committee

1 FOR AN ACT ENTITLED, An Act to establish a public policy of protecting cropland and
2 pasture in county drainage plans.

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

4 Section 1. That § 46A-10A-17 be amended to read as follows:

5 46A-10A-17. A drainage plan shall be for the purpose of enhancing and promoting physical,
6 economic, and environmental management of the county; protecting the tax base; encouraging
7 land utilization that will facilitate economical and adequate productivity of all types of land;
8 lessening governmental expenditure; and conserving and developing natural resources. The plan
9 may incorporate appropriate contingencies for the protection of private cropland and pasture.

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

400E0272

SENATE TAXATION COMMITTEE ENGROSSED NO. **SB 46** - 01/19/2001

Introduced by: The Committee on Taxation at the request of the Department of Revenue

1 FOR AN ACT ENTITLED, An Act to authorize the department to issue direct payment permits
2 in certain instances.

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

4 Section 1. That chapter 10-46 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 The secretary of revenue may authorize a retailer to use a direct payment permit if the retailer
7 purchases goods or services subject to the tax imposed by chapter 10-45. Applicants for a direct
8 payment permit shall apply in writing to the secretary. A retailer may appeal the denial of a direct
9 payment permit or contest a revocation of a direct payment permit pursuant to chapters 1-26 and
10 1-26D. For purposes of this section, the term, direct payment permit, means a permit issued by
11 the department that allows a holder of the permit to accrue and pay the taxes imposed by chapter
12 10-45 directly to the department. The secretary of revenue may promulgate rules pursuant to
13 chapter 1-26 concerning the administration and use of a direct payment permit.

14 Section 2. That chapter 10-46 be amended by adding thereto a NEW SECTION to read as
15 follows:

1 The provisions of this Act do not require any retailer to have a certificate of direct payment
2 on file and do not constitute any liability to the Department of Revenue.

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

400E0223 **SENATE AGRICULTURE AND NATURAL RESOURCES**
COMMITTEE ENGROSSED NO. SB 64 - 01/17/2001

Introduced by: The Committee on Agriculture and Natural Resources at the request of the
Department of Agriculture

1 FOR AN ACT ENTITLED, An Act to authorize the Department of Agriculture and the
2 Department of Game, Fish and Parks to designate certain species as needing both control and
3 protection.

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

5 Section 1. Terms used in this chapter mean:

6 (1) "Departments," the Department of Game, Fish, and Parks and the Department of
7 Agriculture;

8 (2) "Species of management concern," a species designated by the secretary of the
9 Department of Agriculture and the Game, Fish and Parks Commission as a species
10 which shares the dual status of requiring both control and protection.

11 Section 2. The secretary of the Department of Agriculture and the Game, Fish and Parks
12 Commission shall establish, by rules promulgated pursuant to chapter 1-26, a list of species of
13 management concern. In determining whether a species should be listed, the following factors
14 are to be considered:

1 (1) Whether the species or its habitat, or both are of value ecologically and aesthetically
2 and at the same time burdensome for property owners; and

3 (2) Whether the species may warrant protection at times and control at others depending
4 on the rate of reproduction, climate, disease, population viability, and other factors.

5 Section 3. Rules promulgated pursuant to section 2 of this Act shall be conducted jointly by
6 both the Department of Agriculture and the Game, Fish and Parks Commission, including joint
7 notice, publication, hearings, and decision-making.

8 Section 4. If so requested, the departments may render assistance and advice regarding
9 species of management concern including:

10 (1) Providing information to the public and property owners regarding the species of
11 management concern and its characteristics, ecosystem values, and habitat; and

12 (2) Providing assistance in the development of conservation plans or control projects
13 regarding the species of management concern.

14 Section 5. The following acts or omissions constitute nuisances:

15 (1) Engaging in practices which allow or cause a species of management concern to
16 encroach upon the property of another or injure or endanger the property of another;
17 or

18 (2) Failure to control the species of management concern thereby causing encroachment
19 on the property of another or causing injury to or endangering the property of
20 another.

21 Section 6. In addition to any other remedies at law, the remedies set forth in chapter 21-10
22 apply to the nuisances described in section 5 of this Act. These remedies include civil action,
23 including injunctive relief and recovery of damages, and abatement. Abatement, if ordered by the
24 court, shall include reimbursement for any reasonable and necessary costs incurred in abating the

1 nuisance.

2 Section 7. Designation as a species of management concern abrogates any previous

3 designation as a weed or pest.