

# Senate Daily Reader

Wednesday, January 24, 2001

Bills Included				
SB 38	SCR 2			

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

400E0310

## SENATE COMMERCE COMMITTEE ENGROSSED NO. **SB 38** - 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 revise health plan coverage requirements for newborns  
2 and newly adopted children.

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

4 Section 1. That § 58-17-30.3 be amended to read as follows:

5 58-17-30.3. The coverage for a newly born child from the moment of birth or for a newly  
6 adopted child, from the beginning of the six-month adoption bonding period, shall consist of  
7 coverage of injury or sickness including the necessary care and treatment of premature birth and  
8 medically diagnosed congenital defects and birth abnormalities. The coverage required by this  
9 section applies to any subsequent health benefit plan that is purchased providing coverage for  
10 that newly born or newly adopted child if application for the subsequent coverage is made within  
11 sixty-three days of the termination of the prior coverage. The provisions of §§ 58-17-30.2 to 58-  
12 17-30.4, inclusive, apply to any individually written health benefit plan issued or renewed by any  
13 health insurer, health carrier, health maintenance organization, fraternal benefit society, nonprofit  
14 medical and surgical plan, nonprofit hospital service plan, or other entity providing coverage

1 through a health benefit plan subject to the provisions of this title.

2 Section 2. That § 58-18-33 be amended to read as follows:

3 58-18-33. The coverage for a newly born child from the moment of birth or for a newly  
4 adopted child, from the beginning of the six-month adoption bonding period, shall consist of  
5 coverage of injury or sickness including the necessary care and treatment of premature birth and  
6 medically diagnosed congenital defects and birth abnormalities. The coverage required by this  
7 section applies to any subsequent health benefit plan that is purchased providing coverage for  
8 that newly born or newly adopted child if application for the subsequent coverage is made within  
9 sixty-three days of the termination of the prior coverage. The provisions of §§ 58-18-32 to 58-  
10 18-34, inclusive, apply to any group health benefit plan issued or renewed by any health insurer,  
11 health carrier, health maintenance organization, fraternal benefit society, nonprofit medical and  
12 surgical plan, nonprofit hospital service plan, or other entity providing coverage through a health  
13 benefit plan subject to the provisions of this title.

14 Section 3. That § 58-33-85 be amended to read as follows:

15 58-33-85. Any insurer subject to this chapter, including any group health plan, as defined in  
16 section 607(1) of the Employee Retirement Income Security Act of 1974, as amended to  
17 January 1, 1994, who are engaged in the business of health insurance is prohibited from denying  
18 enrollment of a dependent child, ~~as defined by subdivision 25-7A-1(7),~~ under the health insurance  
19 coverage of either the child's natural, adoptive, or stepparents for any of the following reasons:

- 20 (1) The child was born out of wedlock; or  
21 (2) The child is not claimed as a dependent on the parent's federal income tax return; or  
22 (3) The child does not reside with the parent or in the insurer's service area.

23 Section 4. That § 58-38-11.7 be repealed.

24 ~~58-38-11.7. Any health insurance policy or indemnity type contract issued by a nonprofit~~

1 ~~medical and surgical service plan corporation which offers coverage for a family member of an~~  
2 ~~insured or subscriber shall provide that the health insurance benefits applicable for children are~~  
3 ~~payable with respect to a newly born child of the insured or subscriber from the moment of birth~~  
4 ~~or to a newly adopted child of the insured or subscriber from the beginning of the six-month~~  
5 ~~adoption bonding period. The newly born or newly adopted child shall be added to the policy~~  
6 ~~without underwriting and without the imposition of any preexisting waiting period. Any policy~~  
7 ~~or contract issued before July 1, 1984, shall, upon its next anniversary date, also provide that the~~  
8 ~~health insurance benefits applicable for children are payable with respect to a newly born child~~  
9 ~~of the insured or subscriber from the moment of birth or to a newly adopted child of the insured~~  
10 ~~or subscriber from the beginning of the six-month adoption bonding period.~~

11 Section 5. That § 58-38-11.8 be repealed.

12 ~~—58-38-11.8. The coverage for a newly born child from the moment of birth or for a newly~~  
13 ~~adopted child, from the beginning of the six-month adoption bonding period, shall consist of~~  
14 ~~coverage of injury or sickness including the necessary care and treatment of premature birth and~~  
15 ~~medically diagnosed congenital defects and birth abnormalities.~~

16 Section 6. That § 58-38-11.9 be repealed.

17 ~~—58-38-11.9. An insurer may require notice that a newly born or newly adopted child is to be~~  
18 ~~added to the policy or that coverage is to be changed from single or spousal coverage to family~~  
19 ~~coverage. However, the insurer may not require notification sooner than the birth of the child~~  
20 ~~or the start of the adoption bonding period. If the child is added or coverage changed to family~~  
21 ~~coverage before the birth of the child or the start of the adoption bonding period, no additional~~  
22 ~~premium may be charged by the insurer until the birth of the child or the start of the adoption~~  
23 ~~bonding period. The insurer shall take reasonable steps to provide adequate notice to insureds~~  
24 ~~of the need to alter coverage to ensure newborn or adopted children are covered and of the lack~~

1 of premium adjustment until the birth of the child or the start of the adoption bonding period. An  
2 insurer is considered to have taken reasonable steps if prominent disclosure of the requirements  
3 of this section are included in a certificate, subscriber contract, evidence of coverage, or  
4 employee handbook if such are provided to all insureds.

5 — If payment of a specific premium or subscription fee is required to provide coverage for a  
6 child, the policy or contract may require that notification of birth of a newly born child or  
7 notification of the start of the six-month adoption bonding period for an adopted child and  
8 payment of the required premium or fees be furnished to the nonprofit medical and surgical  
9 service plan corporation within thirty-one days after the date of birth or start of the bonding  
10 period in order to have the coverage continued beyond the thirty-one day period.

11 Section 7. That § 58-40-10.7 be repealed.

12 — 58-40-10.7. Any health insurance policy or indemnity type contract issued by a nonprofit  
13 hospital service plan corporation which offers coverage for a family member of an insured or  
14 subscriber shall provide that the health insurance benefits applicable for children are payable with  
15 respect to a newly born child of the insured or subscriber from the moment of birth or to a newly  
16 adopted child of the insured or subscriber from the beginning of the six-month adoption bonding  
17 period. The newly born or newly adopted child shall be added to the policy without underwriting  
18 and without the imposition of any preexisting waiting period. Any policy or contract issued  
19 before July 1, 1984, shall, upon its next anniversary date, also provide that the health insurance  
20 benefits applicable for children are payable with respect to a newly born child of the insured or  
21 subscriber from the moment of birth or to a newly adopted child of the insured or subscriber  
22 from the beginning of the six-month adoption bonding period.

23 Section 8. That § 58-40-10.8 be repealed.

24 — 58-40-10.8. The coverage for a newly born child from the moment of birth or for a newly

1 ~~adopted child, from the beginning of the six-month adoption bonding period, shall consist of~~  
2 ~~coverage of injury or sickness including the necessary care and treatment of premature birth and~~  
3 ~~medically diagnosed congenital defects and birth abnormalities.~~

4 Section 9. That § 58-40-10.9 be repealed.

5 ~~—58-40-10.9. An insurer may require notice that a newly born or newly adopted child is to be~~  
6 ~~added to the policy or that coverage is to be changed from single or spousal coverage to family~~  
7 ~~coverage. However, the insurer may not require notification sooner than the birth of the child~~  
8 ~~or the start of the adoption bonding period. If the child is added or coverage changed to family~~  
9 ~~coverage before the birth of the child or the start of the adoption bonding period, no additional~~  
10 ~~premium may be charged by the insurer until the birth of the child or the start of the adoption~~  
11 ~~bonding period. The insurer shall take reasonable steps to provide adequate notice to insureds~~  
12 ~~of the need to alter coverage to ensure newborn or adopted children are covered and of the lack~~  
13 ~~of premium adjustment until the birth of the child or the start of the adoption bonding period. An~~  
14 ~~insurer is considered to have taken reasonable steps if prominent disclosure of the requirements~~  
15 ~~of this section are included in a certificate, subscriber contract, evidence of coverage, or~~  
16 ~~employee handbook if such are provided to all insureds.~~

17 ~~—If payment of a specific premium or subscription fee is required to provide coverage for a~~  
18 ~~child, the policy or contract may require that notification of birth of a newly born child or~~  
19 ~~notification of the start of the six-month adoption bonding period for an adopted child and~~  
20 ~~payment of the required premium or fees be furnished to the nonprofit medical and surgical~~  
21 ~~service plan corporation within thirty-one days after the date of birth or start of the bonding~~  
22 ~~period in order to have the coverage continued beyond the thirty-one day period.~~

23 Section 10. That § 58-41-35.2 be repealed.

24 ~~—58-41-35.2. Any health insurance policy or indemnity type contract issued by a health~~

1 maintenance organization which offers coverage for a family member of an insured or subscriber  
2 shall provide that the health insurance benefits applicable for children are payable with respect  
3 to a newly born child of the insured or subscriber from the moment of birth or to a newly  
4 adopted child of the insured or subscriber from the beginning of the six-month adoption bonding  
5 period. The newly born or newly adopted child shall be added to the policy without underwriting  
6 and without the imposition of any preexisting waiting period. Any policy or contract issued  
7 before July 1, 1984, shall, upon its next anniversary date, also provide that the health insurance  
8 benefits applicable for children are payable with respect to a newly born child of the insured or  
9 subscriber from the moment of birth or to a newly adopted child of the insured or subscriber  
10 from the beginning of the six-month adoption bonding period.

11 Section 11. That § 58-41-35.3 be repealed.

12 ~~— 58-41-35.3. The coverage for a newly born child from the moment of birth or for a newly~~  
13 ~~adopted child, from the beginning of the six-month adoption bonding period, shall consist of~~  
14 ~~coverage of injury or sickness including the necessary care and treatment of premature birth and~~  
15 ~~medically diagnosed congenital defects and birth abnormalities.~~

16 Section 12. That § 58-41-35.4 be repealed.

17 ~~— 58-41-35.4. An insurer may require notice that a newly born or newly adopted child is to be~~  
18 ~~added to the policy or that coverage is to be changed from single or spousal coverage to family~~  
19 ~~coverage. However, the insurer may not require notification sooner than the birth of the child~~  
20 ~~or the start of the adoption bonding period. If the child is added or coverage changed to family~~  
21 ~~coverage before the birth of the child or the start of the adoption bonding period, no additional~~  
22 ~~premium may be charged by the insurer until the birth of the child or the start of the adoption~~  
23 ~~bonding period. The insurer shall take reasonable steps to provide adequate notice to insureds~~  
24 ~~of the need to alter coverage to ensure newborn or adopted children are covered and of the lack~~

1 ~~of premium adjustment until the birth of the child or the start of the adoption bonding period. An~~  
2 ~~insurer is considered to have taken reasonable steps if prominent disclosure of the requirements~~  
3 ~~of this section are included in a certificate, subscriber contract, evidence of coverage, or~~  
4 ~~employee handbook if such are provided to all insureds.~~

5 ~~— If payment of a specific premium or subscription fee is required to provide coverage for a~~  
6 ~~child, the policy or contract may require that notification of birth of a newly born child or~~  
7 ~~notification of the start of the six-month adoption bonding period for an adopted child and~~  
8 ~~payment of the required premium or fees be furnished to the nonprofit medical and surgical~~  
9 ~~service plan corporation within thirty-one days after the date of birth or start of the bonding~~  
10 ~~period in order to have the coverage continued beyond the thirty-one day period.~~



# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

660E0082

## SENATE HEALTH AND HUMAN SERVICES COMMITTEE ENGROSSED NO. **SCR 2** - 01/22/2001

Introduced by: Senators Albers, Brown (Arnold), Hagen, Hutmacher, and Putnam and  
Representatives Nachtigal, Napoli, and Valandra at the request of Interim  
State-Tribal Relations Committee

1 A CONCURRENT RESOLUTION, Urging the federal government to authorize and fund long-  
2 term health care on Indian reservations.

3 WHEREAS, among all the states in the Northern Plains region, South Dakota has the highest  
4 percentage of its Native American population, sixty-seven percent, living on Indian reservations.  
5 In addition, South Dakota is experiencing a growing elderly population on its Indian  
6 reservations; and

7 WHEREAS, Native Americans are living significantly longer today than they did in the early  
8 1900s. The life expectancy of Native Americans in South Dakota is currently sixty-five. This  
9 increased life expectancy presents new challenges in caring for the elderly and creates the need  
10 for elderly care facilities to provide services that were once provided solely by the family; and

11 WHEREAS, the rate of debilitating diseases, particularly diabetes, on South Dakota Indian  
12 reservations has been increasing over the years. The age-adjusted diabetes mellitus death rate  
13 among Native Americans in South Dakota is 62.6 per 100,000 population, which is five times  
14 higher than the combined rate for all races in the United States; and

1 WHEREAS, Native American culture strongly embraces the extended family in which elders  
2 are considered the source of wisdom, history, and tradition; and

3 WHEREAS, a loss of important cultural traditions for families and tribal members occurs  
4 when elderly Native Americans must seek nursing facility placement off the reservations. This  
5 separation means social and cultural isolation at a time in elders' lives when understanding and  
6 cultural support are most important; and

7 WHEREAS, due to the high percentage of Native American families below poverty level  
8 living on Indian reservations, lack of transportation to visit family members in nonreservation  
9 nursing homes creates a hardship for the elderly and their families; and

10 WHEREAS, the federal government has a long-standing legal and moral obligation to  
11 provide for the health care needs of Native Americans on reservations. This obligation is based  
12 on treaty and federal law; and

13 WHEREAS, the Indian Health Service currently provides primary and acute health care  
14 services, such as physician and hospital care, through federal facilities located on each of the  
15 reservations; and

16 WHEREAS, the Indian Health Service currently does not provide long-term care services,  
17 such as assisted living and nursing home care, on any of South Dakota's Indian reservations; and

18 WHEREAS, the federal government has failed to take responsibility for providing long-term  
19 care services to elderly Native Americans residing on reservations in South Dakota. The federal  
20 government has refused to recognize long-term care for Native Americans as a federal  
21 responsibility and has failed to provide authorization and funding that would enable the Indian  
22 Health Service to provide those needed services; and

23 WHEREAS, the lack of long-term care services has created an undue hardship for  
24 reservation residents and their families creating a growing need for the Indian Health Service to

1 appropriately address the long-term care needs of South Dakota's Native American population:

2 NOW, THEREFORE, BE IT RESOLVED, by the Senate of the Seventy-sixth Legislature  
3 of the State of South Dakota, the House of Representatives concurring therein, that the federal  
4 government is requested to formally take responsibility for long-term care for Native Americans  
5 residing on Indian reservations by providing the necessary authorization and funding to enable  
6 the Indian Health Service to offer long-term care for Native American elders on Indian  
7 reservations. The United States government must live up to its responsibilities by helping to  
8 establish facilities that will allow our Native American elders to spend their final years with  
9 dignity in their own communities and cultural surroundings; and

10 BE IT FURTHER RESOLVED, that copies of this Resolution are to be forwarded to  
11 Senator Tom Daschle, Senator Tim Johnson, and Representative John Thune and that Senator  
12 Daschle, Senator Johnson, and Representative Thune are requested to brief the 2002 South  
13 Dakota Legislature on any progress or developments that have occurred at the national level on  
14 this issue.