

Senate Daily Reader

Monday, January 29, 2001

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State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

400E0320

SENATE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1050 - 01/25/2001

Introduced by: The Committee on Judiciary at the request of the Department of Social
Services

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding genetic testing and
2 analysis in paternity cases.

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

4 Section 1. That § 25-8-7.1 be amended to read as follows:

5 25-8-7.1. In any action or proceeding in which the parentage of a child is at issue, upon
6 motion of the court, ~~or upon motion of~~ the department, or any of the interested parties ~~for good~~
7 ~~cause shown~~, the court shall, for good cause shown, order the mother, the child, ~~and~~ or any
8 alleged father to submit to an examination of blood, tissue, or other bodily substances for the
9 purpose of testing any genetic systems that are generally accepted within the scientific
10 community for the conclusive determination of paternity probability. The results of the tests,
11 together with the opinions and conclusions of the testing laboratory, shall be filed with the court.
12 Upon written agreement of the mother and any presumed or alleged father, tests may be
13 conducted prior to filing of an action. If the action is then filed, the test results shall be filed with
14 the court and admitted into evidence as provided in § 25-8-7.3.

1 Section 2. That § 25-8-7.2 be amended to read as follows:

2 25-8-7.2. Only a physician, laboratory technician, registered nurse, physician's assistant,
3 phlebotomist, expanded role licensed practical nurse, medical technician, or medical technologist,
4 acting under court order, or at the request of both the mother and any alleged father of the child,
5 may withdraw blood, ~~tissue~~ for the purpose of testing genetic systems to determine parentage.
6 Tissue, saliva, or other bodily substances may be withdrawn, by a qualified person, acting under
7 court order, or at the request of both the mother and any alleged father of the child, using a
8 noninvasive procedure, for the purpose of testing genetic systems to determine parentage. ~~Such~~
9 ~~persons~~ No person, and any no entity, hospital, or laboratory employing such ~~persons, are not~~
10 person, is liable for damages to the party from whom the blood, tissue, or other bodily substance
11 is withdrawn, if the withdrawal is administered with usual and ordinary care.

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

376E0048

SENATE AGRICULTURE AND NATURAL RESOURCES COMMITTEE ENGROSSED NO. **SB 9** - 01/23/2001

Introduced by: Senators Vitter, Diedrich (Elmer), Drake, and Symens and Representatives Fryslic, Hanson (Gary), Konold, and Lintz at the request of the Interim Agriculture and Natural Resources Committee

1 FOR AN ACT ENTITLED, An Act to revise certain provisions pertaining to landowner liability
2 for injuries sustained on flooded land.

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

4 Section 1. That § 20-9-11 be amended to read as follows:

5 20-9-11. ~~No~~ Notwithstanding the provisions of subdivision 20-9-16(1), no cause of action
6 may arise against the owner, tenant, or lessee of any real estate for any injury to any person or
7 death resulting therefrom or damage to property of such person when such person is on the
8 flooded lands of the owner, tenant, or lessee, with or without permission, ~~irrespective of the~~
9 ~~method or means by which the trespass occurred,~~ unless such death or injuries were caused by
10 the ~~gross negligence~~ or willful and wanton misconduct of the owner, tenant or lessee.

11 This section does not affect the doctrine of attractive nuisance or other legal doctrines
12 relating to the liability arising from artificial conditions highly dangerous to children.

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

400E0300

SENATE COMMERCE COMMITTEE ENGROSSED NO. **SB 39** - 01/25/2001

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

1 FOR AN ACT ENTITLED, An Act to establish standards for disability insurance.

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

3 Section 1. That chapter 58-17 be amended by adding thereto a NEW SECTION to read as
4 follows:

5 For the purposes of this Act, the term, disability insurance, means a policy or certificate of
6 insurance that primarily provides payment to or for the benefit of the policyholder or certificate
7 holder based, in whole or in part, upon lost wages or other earned income or business or financial
8 losses as a result of an inability to work due to sickness, injury, or a combination of sickness and
9 injury.

10 Section 2. That chapter 58-17 be amended by adding thereto a NEW SECTION to read as
11 follows:

12 Any disability insurance policy may include provisions that exclude or reduce benefits if the
13 insured is collecting other benefits under a government program or is eligible to receive benefits
14 under other insurance coverage. If the insured subsequently receives other benefits for a period

1 for which the insurer paid benefits, the insurer may require reimbursement from the insured for
2 any benefits already paid that otherwise would not have been paid. If the insured fails to make
3 timely application for any other insurance coverage or governmental program for which that
4 insured may be eligible, fails to actively and in good faith pursue all appeals procedures if benefits
5 under other insurance or governmental program have been denied, or fails to produce
6 satisfactory evidence that the applications have been made and the appeals pursued, benefits may
7 be reduced or withheld.

8 Section 3. That chapter 58-17 be amended by adding thereto a NEW SECTION to read as
9 follows:

10 No disability insurance policy may require the loss to commence less than thirty days after
11 the date of the accident.

12 Section 4. That chapter 58-17 be amended by adding thereto a NEW SECTION to read as
13 follows:

14 Except for overhead expense, buy-sell coverage or other similar business disability insurance
15 coverage, a disability insurance policy shall meet the following minimum standards:

- 16 (1) Provide that periodic payments that are payable at ages after sixty-two and reduced
17 solely on the basis of age are at least fifty percent of the amounts payable immediately
18 prior to age sixty-two or in the case of an employer group plan that has twenty or
19 more employees, that periodic payments are actuarially equivalent regardless of age;
- 20 (2) Contain an elimination period no greater than:
- 21 (a) Ninety days in the case of coverage providing a benefit of one year or less;
- 22 (b) One hundred eighty days in the case of coverage providing a benefit of more
23 than one year but not greater than two years;
- 24 (c) Three hundred sixty-five days in all other cases during the continuance of

- 1 disability resulting from sickness or injury;
- 2 (d) Three hundred sixty-five days for disability income policies with a benefit
- 3 period of at least two years but less than five years; or
- 4 (e) Seven hundred thirty days for disability income policies with a benefit period
- 5 greater than five years resulting from sickness or injury;
- 6 (3) Provide a maximum benefit period of at least six months for long-term disability
- 7 insurance and at least twelve weeks for short-term disability insurance. However, in
- 8 the case of a policy covering disability arising out of pregnancy, childbirth, or
- 9 miscarriage, the maximum benefit period may be one month, except if the plan is an
- 10 employer plan with fifteen or more employees, then the maximum benefit period for
- 11 pregnancy, childbirth, or miscarriage may not be less than the maximum benefit period
- 12 for other covered disabilities;
- 13 (4) Include no reduction in benefits because of any cost of living increase in social
- 14 security or similar benefits during a benefit period;
- 15 (5) Require only one elimination period if a policy provides total disability benefits and
- 16 partial disability benefits.

17 A long-term disability insurance policy may have longer elimination periods if the policy is

18 issued in conjunction with or supplemental to a limited duration self-insured or other short-term

19 disability policy. The provisions of this section do not apply to an employer plan if at least fifty

20 percent of the covered employee's disability benefits are subject to federal income taxes.

21 Section 5. That chapter 58-17 be amended by adding thereto a NEW SECTION to read as

22 follows:

23 The director may promulgate rules pursuant to chapter 1-26 to protect the insurance-buying

24 public with regard to disability policies or disability income policies. However, the director shall

1 take into account the effect any such rule may have on the availability of coverage. The rules may
2 include:

3 (1) Definition of terms;

4 (2) Permissible exclusions;

5 (3) Return of premium provisions;

6 (4) Terms of renewability;

7 (5) Disclosure requirements;

8 (6) Benefit triggers, if such rules permit the use of activities of daily living as an
9 acceptable benefit trigger; and

10 (7) Limitations, exceptions, and reductions.

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

400E0298

SENATE COMMERCE COMMITTEE ENGROSSED NO. **SB 40** - 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 exempt from registration certain Canadian broker-dealers
2 and the securities offered by them.

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

4 Section 1. That § 47-31A-401(c) be amended by adding thereto a NEW SUBSECTION to
5 read as follows:

6 (5) A broker-dealer who is a resident of Canada, has no office or other physical presence
7 in this state, and complies with the following conditions:

8 (a) Is a member of a self-regulatory organization or stock exchange in Canada;

9 (b) Maintains a provincial or territorial registration and a membership in a self-
10 regulatory organization or stock exchange in good standing;

11 (c) Is not in violation of § 47-31A-101; and

12 (d) Only effects or attempts to effect transactions in securities:

13 (i) With or for a person from Canada who is temporarily present in this
14 state, with whom the Canadian broker-dealer had a bona fide business-

1 client relationship before the person entered this state; or

2 (ii) With or for a person from Canada who is present in this state, whose
3 transactions are in a self-directed tax-advantaged retirement plan in
4 Canada of which the person is the holder or contributor.

5 Section 2. That § 47-31A-402(b) be amended by adding thereto a NEW SUBSECTION to
6 read as follows:

7 (16) An offer or sale of a security effected by a person excluded from the definition of
8 broker-dealer under § 47-31A-401(c)(5).

9 Section 3. That § 47-31A-201(g) be repealed.

10 ~~—(g) A broker-dealer that is resident in Canada and has no office or other physical presence~~
11 ~~in this state may, provided the broker-dealer is registered in accordance with this chapter, and~~
12 ~~any rules or orders as prescribed by the director, effect transactions in securities with or for, or~~
13 ~~induce or attempt to induce the purchase or sale of any security by: (1) A person from Canada~~
14 ~~who is temporarily resident in this state, with whom the Canadian broker-dealer had a bona fide~~
15 ~~broker-dealer client relationship before the person entered the United States; or (2) A person~~
16 ~~from Canada who is a resident in this state, whose transactions are in self- directed tax~~
17 ~~advantaged retirement plan in Canada of which the person is the holder or contributor.~~

18 Section 4. That § 47-31A-201(h) be repealed.

19 ~~—(h) An agent who will be representing a Canadian broker-dealer registered under this section~~
20 ~~may, provided the agent is registered in accordance with this chapter, effect transactions in~~
21 ~~securities in this state as permitted for the broker-dealer in subdivision 47-31A-201(g) and any~~
22 ~~rules or orders as prescribed by the director.~~

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

400E0268

HOUSE TAXATION COMMITTEE ENGROSSED NO. **SB 45** - 01/23/2001

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

1 FOR AN ACT ENTITLED, An Act to allow alcohol beverage license suspension or revocation
2 hearings to be held in a location other than the county where the license has been applied for
3 or has been issued.

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

5 Section 1. That § 35-2-13 be amended to read as follows:

6 35-2-13. An applicant or licensee under this title, or any person or governing board interested
7 therein, shall have a right of hearing in relation to any action taken upon the application or
8 license, which hearing shall be held in the county where the license has been applied for or has
9 been issued, in accordance with the provisions of chapter 1-26. However, if the parties agree,
10 a hearing to determine whether the secretary of revenue may suspend or revoke a license may
11 be held at a location other than the county where the license has been applied for or has been
12 issued. Such hearing may be held by telecommunications technologies.

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

400E0331

SENATE GOVERNMENT OPERATIONS AND AUDIT COMMITTEE ENGROSSED NO. **SB 50** - 01/25/2001

Introduced by: The Committee on Government Operations and Audit at the request of the
Bureau of Finance and Management

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the state's accounting
2 systems and the financial statements prepared by the Bureau of Finance and Management.

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

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

5 4-4-4. ~~The following types of funds and account group entities shall be used by the state and~~
6 ~~local governments except higher education.~~

7 ~~— Governmental Funds~~

8 ~~— (1) "General fund," to account for all financial resources except those required to be~~
9 ~~accounted for in another fund.~~

10 ~~— (2) "Special revenue funds," to account for the proceeds of specific revenue sources~~
11 ~~(other than special assessments, expendable trusts, or for major capital projects) that~~
12 ~~are legally restricted to expenditure for specified purposes.~~

13 ~~— (3) "Capital projects funds," to account for financial resources to be used for the~~
14 ~~acquisition or construction of major capital facilities (other than those financed by~~

1 ~~proprietary funds, special assessment funds, and trust funds).~~

2 ~~— (4) — "Debt service funds," to account for the accumulation of resources for, and the~~
3 ~~payment of, general long-term debt principal and interest.~~

4 ~~— Proprietary Funds~~

5 ~~— (5) — "Enterprise funds," to account for operations that are financed and operated in a~~
6 ~~manner similar to private business enterprises--where the intent of the governing body~~
7 ~~is that the costs (expenses, including depreciation) of providing goods or services to~~
8 ~~the general public on a continuing basis be financed or recovered primarily through~~
9 ~~user charges or where the governing body has decided that periodic determination of~~
10 ~~revenues earned, expenses incurred, or net income is appropriate for capital~~
11 ~~maintenance, public policy, management control, accountability, or other purposes.~~

12 ~~— (6) — "Internal service funds," to account for the financing of goods or services provided~~
13 ~~by one department or agency to other departments or agencies of the governmental~~
14 ~~unit, or to other governmental units, on a cost-reimbursement basis.~~

15 ~~— Fiduciary Funds~~

16 ~~— (7) — "Trust and agency funds," to account for assets held by a governmental unit in a~~
17 ~~trustee capacity or as an agent for individuals, private organizations, other~~
18 ~~governmental units, and other funds. These include expendable trust funds,~~
19 ~~nonexpendable trust funds, pension trust funds, and agency funds.~~

20 ~~— Account Groups~~

21 ~~— (8) — "General fixed assets," to account for all fixed assets except those accounted for in~~
22 ~~proprietary funds or trust funds.~~

23 ~~— (9) — "General long-term obligation," to account for the unmatured principal of bonds,~~
24 ~~warrants, notes, or other forms of noncurrent or long-term general obligation~~

1 indebtedness that is not a specific liability of any proprietary fund, special assessment
2 fund, or trust fund. Any accounting system used by any state agency or any
3 component unit of state government shall be designed to meet the financial accounting
4 and reporting requirements of generally accepted accounting principles.

5 Section 2. That § 4-4-4.1 be repealed.

6 ~~4-4-4.1. Institutions of higher education shall use the following types of funds:~~

7 ~~— Current Funds~~

8 ~~(1) "Unrestricted current funds," to account for all resources expended for short-term~~
9 ~~operating purposes which have no purpose stipulated by the donor or other external~~
10 ~~agency;~~

11 ~~(2) "Restricted current funds," to account for all resources expended for short-term~~
12 ~~operating purposes which are limited by the donor or other external agency to~~
13 ~~specified purposes, programs, departments, or schools;~~

14 ~~— Loan Funds~~

15 ~~(3) "Loan funds," to account for the resources available for loans to students, faculty, and~~
16 ~~staff;~~

17 ~~— Endowment and Similar Funds~~

18 ~~(4) "Endowment funds," to account for funds for which the terms of the gift instrument~~
19 ~~creating the fund stipulated that the principal of the fund is not expendable;~~

20 ~~(5) "Term endowment funds," to account for those funds that are like endowment funds~~
21 ~~except that all or part of the principal may be used after a stated period of time or~~
22 ~~upon the occurrence of a certain event;~~

23 ~~(6) "Quasi-endowment funds," to account for those funds that the governing board of the~~
24 ~~institution, rather than a donor or other external agency, determined to retain and~~

1 invest;

2 — ~~Annuity and Life Income Funds~~

3 — ~~(7) "Annuity funds," to account for those funds acquired by an institution under an~~
4 ~~agreement that makes money or other property available to the institution on~~
5 ~~condition that it bind itself to pay stipulated amounts periodically to the donor or~~
6 ~~other designated individual until the time specified in the agreement for the payments~~
7 ~~to terminate;~~

8 — ~~(8) "Life income funds," to account for those funds acquired by an institution under an~~
9 ~~agreement that makes money or other property available to the institution on~~
10 ~~condition that it bind itself to pay the income earned by the donated assets periodically~~
11 ~~to the donor or other designated individual, usually for the lifetime of the income~~
12 ~~beneficiary;~~

13 — ~~Agency Funds~~

14 — ~~(9) "Agency funds," to account for funds held by the institution as custodian or fiscal~~
15 ~~agent for individual students, faculty, staff members, and organizations;~~

16 — ~~Plant Funds~~

17 — ~~(10) "Unexpended plant funds," to account for unexpended resources derived from various~~
18 ~~sources to finance the acquisition of long-lived plant assets and their associated~~
19 ~~liabilities;~~

20 — ~~(11) "Funds for renewals and replacements," to account for the renewal and replacement~~
21 ~~of plant fund assets as distinguished from additions and improvements to plant;~~

22 — ~~(12) "Funds for retirement of indebtedness," to account for the accumulation of resources~~
23 ~~for interest and principal payments and other debt service charges, including~~
24 ~~contributions for sinking funds, relating to plant fund indebtedness;~~

1 ~~(13) "Investment in plant," to account for all long-lived assets in the service of the~~
2 ~~institution and all construction in progress, as well as all associated liabilities except~~
3 ~~for long-lived assets held as investments in endowment and similar funds, or~~
4 ~~construction in progress carried in the unexpended plant funds and funds for renewals~~
5 ~~and replacements subgroups until completion of the project.~~

6 ~~In addition to these fund groups, institutions of higher education may use such additional~~
7 ~~fund groups as may be necessary to report their fiscal condition in conformity with generally~~
8 ~~accepted accounting principles.~~

9 ~~All endowments, gifts, and bequests made directly to any state institution of higher~~
10 ~~education, and the income therefrom, shall belong to and be used only by that institution. Direct~~
11 ~~endowments, gifts, and bequests, including those received indirectly by foundations affiliated~~
12 ~~with an institution, may not be used to reduce its state appropriation. Nothing contained in this~~
13 ~~section may require the continuation of programs or program levels achieved as the result of~~
14 ~~those endowments, gifts, and bequests, nor may it apply to state appropriated funds.~~

15 Section 3. That § 4-4-6 be amended to read as follows:

16 4-4-6. The Bureau of Finance and Management shall annually prepare financial statements
17 for the State of South Dakota. The financial statements shall ~~include all funds and account~~
18 ~~groups of the state and shall~~ be prepared in accordance with generally accepted accounting
19 principles.

20 Section 4. That chapter 13-52 be amended by adding thereto a NEW SECTION to read as
21 follows:

22 All endowments, gifts, and bequests made directly to any state institution of higher
23 education, and the income therefrom, shall belong to and be used only by that institution. Direct
24 endowments, gifts, and bequests, including those received indirectly by foundations affiliated

1 with an institution, may not be used to reduce its state appropriation. Nothing contained in this
2 section may require the continuation of programs or program levels achieved as the result of
3 those endowments, gifts, and bequests, nor may it apply to state appropriated funds.

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

400E0316

SENATE COMMERCE COMMITTEE ENGROSSED NO. **SB 58** - 01/25/2001

Introduced by: The Committee on Commerce at the request of the Secretary of State

1 FOR AN ACT ENTITLED, An Act to establish certain fees for filing and indexing records

2 pursuant to the Uniform Commercial Code, to establish a fund, and to appropriate the fund.

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

4 Section 1. That § 57A-9-525 be amended to read as follows:

5 57A-9-525. (a) Except as otherwise provided in subsection (e), the fee for filing and indexing
6 a record under this part, other than an initial financing statement of the kind described in
7 subsection (b), is (the amount specified in subsection (c), if applicable, plus):

8 (1) \$ ~~[X]~~ Twelve dollars if the record is communicated in writing and
9 consists of one ~~or two pages~~ page, and four dollars for each additional page;

10 (2) \$ ~~[2X]~~ Ten dollars if the record is communicated ~~in writing and~~
11 ~~consists of more than two pages~~ by internet; and

12 (3) \$ ~~[1/2X]~~ Twenty dollars if the record is communicated by another
13 medium authorized by filing-office rule.

14 (b) Except as otherwise provided in subsection (e), the fee for filing and indexing an initial
15 financing statement of the following kind is (the amount specified in subsection (c), if applicable,

1 plus):

2 (1) \$_____ Thirty dollars if the financing statement indicates that it is filed in connection
3 with a public-finance transaction;

4 (2) \$_____ Thirty dollars if the financing statement indicates that it is filed in connection
5 with a manufactured-home transaction.

6 ~~{Alternative A}~~

7 ~~—(c) The number of names required to be indexed does not affect the amount of the fee in~~
8 ~~subsections (a) and (b).~~

9 ~~{Alternative B}~~

10 (c) Except as otherwise provided in subsection (e), if a record is communicated in writing
11 or electronically, the fee for each name more than ~~two~~ one required to be indexed is \$_____ two
12 dollars.

13 (d) The fee for responding to a request for information from the filing office, including for
14 (issuing a certificate showing) ~~(communicating)~~ whether there is on file any financing statement
15 naming a particular debtor, is:

16 (1) \$_____ Twelve dollars if the request is communicated in writing; and

17 (2) \$_____ Ten dollars if the request is communicated by another medium authorized by
18 filing-office rule.

19 Upon request the filing officer shall furnish a copy of any filed financing statement or
20 statement of assignment for a uniform fee of one dollar per page.

21 (e) This section does not require a fee with respect to a record of a mortgage which is
22 effective as a financing statement filed as a fixture filing or as a financing statement covering
23 as-extracted collateral or timber to be cut under § 57A-9-502(c). However, the recording and
24 satisfaction fees that otherwise would be applicable to the record of the mortgage apply.

1 Section 2. That chapter 57A-9 be amended by adding thereto a NEW SECTION to read as
2 follows:

3 57A-9-527. There is hereby created, within the state treasury, the financing statement filing
4 fee fund, which is continuously appropriated, to provide funds for the operation of the uniform
5 commercial code program within the Office of the Secretary of State.

6 Section 3. That chapter 57A-9 be amended by adding thereto a NEW SECTION to read as
7 follows:

8 57A-9-528. For each effective financing statement filed pursuant to this chapter, three dollars
9 of the fee collected pursuant to § 57A-9-525, and the computer search fee assessed pursuant to
10 § 57A-9-525, shall be deposited in the financing statement filing fee fund.

11 Section 4. That chapter 57A-9 be amended by adding thereto a NEW SECTION to read as
12 follows:

13 57A-9-529. At the end of each fiscal year, any funds in the financing statement filing fee
14 fund, not otherwise appropriated, in excess of twenty-five thousand dollars, shall revert to the
15 general fund.

16 Section 5. That chapter 57A-9 be amended by adding thereto a NEW SECTION to read as
17 follows:

18 57A-9-530. If a filed financing or continuation statement covers farm products or accounts,
19 or livestock, or general intangibles arising from or relating to the sale of farm products by a
20 farmer, or crops growing or to be grown, the secured party may file a standard form to be
21 prescribed by the secretary of state, which may be a combined effective financing statement and
22 a uniform commercial code financing statement.

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

723E0435

SENATE AGRICULTURE AND NATURAL RESOURCES COMMITTEE ENGROSSED NO. **SB 77** - 01/25/2001

Introduced by: Senators Duxbury and Ham and Representatives Jaspers and Nachtigal

1 FOR AN ACT ENTITLED, An Act to provide for the issuance of certain temporary veterinary
2 medicine permits.

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

4 Section 1. That chapter 36-12 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 The secretary of the Board of Veterinary Medical Examiners shall issue a temporary permit
7 to a graduate of a nonaccredited college of veterinary medicine who has completed the fourth
8 year of study at an accredited college, has successfully passed the national exam defined in rules
9 promulgated by the board pursuant to chapter 1-26, and has enrolled in the Educational
10 Committee for Foreign Veterinary Graduates program. The holder of a temporary permit under
11 this section shall practice under the supervision of a veterinarian licensed in South Dakota.
12 Temporary permits issued under this section are valid until the permittee obtains Educational
13 Committee for Foreign Veterinary Graduates certification or for a maximum of two years from
14 the date of issue.

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

634E0382

SENATE HEALTH AND HUMAN SERVICES COMMITTEE ENGROSSED NO. **SB 87** - 01/25/2001

Introduced by: Senators Diedtrich (Elmer), Moore, and Whiting and Representatives
Solum, Davis, McCoy, Slaughter, and Van Etten

1 FOR AN ACT ENTITLED, An Act to provide for uniform prescription drug information cards.

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

3 Section 1. Any health benefit plan that provides coverage for prescription drugs or devices,
4 or administers such a plan, including third-party administrators for self-insured plans and state-
5 administered plans, shall issue to its insureds a card or other technology containing uniform
6 prescription drug information. The uniform prescription drug information card or technology
7 shall be in the format approved by the National Council for Prescription Drug Programs
8 (NCPDP) and shall include all of the required and conditional or situational fields and conform
9 to the most recent pharmacy identification card or technology implementation guide produced
10 by NCPDP or conform to a national format acceptable to the director of the Division of
11 Insurance.

12 Section 2. A health benefit plan shall issue a card or other technology required by section 1
13 of this Act upon enrollment. The card or technology shall be reissued upon any change in the
14 insured's coverage that impacts data contained on the card or upon any change in the NCPDP

1 implementation guide. Newly issued cards or technology shall be updated with the latest
2 coverage information and shall conform to the NCPDP standards then in effect and to the
3 implementation guide then in use.

4 Section 3. As used in this Act, the term, health benefit plan, means an accident and health
5 insurance policy or certificate; a nonprofit hospital or medical service corporation contract; a
6 health maintenance organization subscriber contract; a plan provided by a multiple employer
7 welfare arrangement; or a plan provided by another benefit arrangement, to the extent permitted
8 by the Employee Retirement Income Security Act of 1974, as amended to January 1, 2001, or
9 by any waiver of or other exception to that Act provided under federal law or regulation. The
10 term does not apply to any plan, policy, or contract that provides coverage only for:

- 11 (1) Accident;
- 12 (2) Credit;
- 13 (3) Disability income;
- 14 (4) Specified disease;
- 15 (5) Dental;
- 16 (6) Vision;
- 17 (7) Coverage issued as a supplement to liability insurance;
- 18 (8) Medical payments under automobile or homeowners;
- 19 (9) Insurance under which benefits are payable with or without regard to fault and that
20 is statutorily required to be contained in any liability policy or equivalent self-
21 insurance; and
- 22 (10) Hospital income or indemnity.

23 Section 4. This Act applies to health benefit plans that are delivered, issued for delivery, or
24 renewed on and after July 1, 2001. For purposes of this Act, renewal of a health benefit policy,

1 contract, or plan is presumed to occur on each anniversary of the date on which coverage was
2 first effective on the person or persons covered by the health benefit plan.

3 Section 5. The director of insurance shall enforce the provisions of this Act. The director of
4 insurance may promulgate rules pursuant to chapter 1-26 to establish the format for the uniform
5 information card or technology to be used in the state following the standards established in
6 sections 1 and 2 of this Act.

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

172E0173 **SENATE EDUCATION COMMITTEE ENGROSSED NO.**
SB 91 - 01/25/2001

Introduced by: Senators Albers, Dennert, Diedrich (Larry), Hutmacher, Koetzle, McCracken, McIntyre, Moore, Munson, Olson (Ed), and Symens and Representatives Michels, Broderick, Brown (Richard), Davis, Duniphan, Elliott, Flowers, Hennies (Thomas), Holbeck, Jaspers, Juhnke, Kooistra, Madsen, McCaulley, Murschel, Olson (Mel), Richter, and Smidt

1 FOR AN ACT ENTITLED, An Act to exempt certain school district employees from the
2 requirement for certain background checks.

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

4 Section 1. That § 13-10-12 be amended to read as follows:

5 13-10-12. Each person over eighteen years of age hired by a school district shall submit to
6 a criminal background investigation, by means of fingerprint checks by the Division of Criminal
7 Investigation and the Federal Bureau of Investigation. The school district shall submit completed
8 fingerprint cards to the Division of Criminal Investigation before the prospective new employee
9 enters into service. If no disqualifying record is identified at the state level, the fingerprints shall
10 be forwarded by the Division of Criminal Investigation to the Federal Bureau of Investigation
11 for a national criminal history record check. Any person whose employment is subject to the
12 requirements of this section may enter into service on a temporary basis pending receipt of
13 results of the criminal background investigation. The employing school district may, without

1 liability, withdraw its offer of employment or terminate the temporary employment without
2 notice if the report reveals a disqualifying record. Any person whose employment is subject to
3 the requirements of this section shall pay any fees charged for the criminal record check.
4 However, the school board or governing body may reimburse the person for the fees. Any person
5 hired to officiate, judge, adjudicate, or referee an event conducted under the authority of the
6 South Dakota High School Activities Association is not required to submit to a criminal
7 background investigation as required in this section. In addition, any person employed by a
8 postsecondary technical institute is not required to submit to a criminal background investigation
9 as required in this section, unless the person is a teacher who teaches an elementary or secondary
10 level course in an elementary or secondary school facility, or unless the person is an employee,
11 other than a teacher, whose work assignment includes working in an elementary or secondary
12 school facility.

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

633E0291 **SENATE EDUCATION COMMITTEE ENGROSSED NO.**
SB 93 - 01/25/2001

Introduced by: Senators Ham, Albers, Brosz, Brown (Arnold), Daugaard, Dennert, Diedrich (Larry), Diedrich (Elmer), Everist, Hagen, Koetzle, McCracken, McIntyre, Moore, Olson (Ed), and Vitter and Representatives Brown (Richard), Adelstein, Begalka, Broderick, Brown (Jarvis), Clark, Duenwald, Frost, Fryslie, Garnos, Gillespie, Hansen (Tom), Heineman, Hennies (Thomas), Holbeck, Hunhoff, Jaspers, Jensen, Juhnke, Konold, Lintz, Madsen, McCaulley, McCoy, Michels, Murschel, Nesselhuf, Olson (Mel), Pederson (Gordon), Peterson (Bill), Pummel, Rhoden, Richter, Sebert, Slaughter, Smidt, Solum, Teupel, Van Etten, and Wick

1 FOR AN ACT ENTITLED, An Act to revise certain provisions related to the investment of
2 permanent school funds and to declare an emergency.

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

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

6 In adjusting the principal of the common school permanent fund and other educational and
7 charitable funds by the rate of inflation pursuant to Article VIII, Section 3 of the South Dakota
8 Constitution, the state investment council shall proceed as follows:

9 (1) The inflation adjustment period is the fiscal year, beginning July first and ending June
10 thirtieth. The first inflation adjustment period begins on November 15, 2000, and ends
11 on June 30, 2001. The principal shall be credited each year for the inflation adjustment

1 at the time of the common school apportionment beginning in 2002;

2 (2) The rate of inflation is based on the consumer price index prepared by the Bureau of
3 Labor Statistics of the United States Department of Labor;

4 (3) The principal balance in each permanent school and other educational and charitable
5 fund as of November 15, 2000, adjusted by amounts as provided by law, is the
6 principal balance to be increased by the rate of inflation; and

7 (4) The inflation adjustment requirement shall be met using realized net capital gains. If
8 these are not sufficient, the interest, dividends, and other income shall be used. Any
9 excess realized net capital gains shall be carried forward for the following year's
10 inflation adjustment.

11 Section 2. That § 4-5-26 be amended to read as follows:

12 4-5-26. Money made available for investment may be invested in the following classes of
13 securities and investments and, except as provided by § 3-12-117, chapter 3-13, ~~and~~ the South
14 Dakota Cement Plant retirement fund, and the permanent school and other educational and
15 charitable funds, not otherwise:

16 (1) Direct and indirect obligations of the United States government;

17 (2) Agencies and instrumentalities of the United States government;

18 (3) Direct obligations of the State of South Dakota and any of its political subdivisions;

19 (4) Obligations consisting of notes, bonds, debentures, and certificates which are direct
20 obligations of a solvent corporation or trust existing under the laws of the United
21 States or any state thereof, provided that such investments shall be rated in the four
22 highest classifications established by at least two standard rating services;

23 (5) Savings accounts, share accounts, certificates of deposit of banks, savings and loan
24 associations, building and loan associations and bankers' acceptances.

1 Section 3. That § 4-8-10 be amended to read as follows:

2 4-8-10. The commissioner of school and public lands, after any adjustments that have been
3 made pursuant to section 1 of this Act, shall apportion the funds arising from ~~accrued~~ interest,
4 dividends, and other income on invested funds derived from the sale of public lands apportioned
5 to the educational, penal, and charitable institutions of the state, or from leases on such lands.

6 Section 4. That § 5-10-1.1 be amended to read as follows:

7 5-10-1.1. There is hereby created in the state treasury a fund called the Board of Regents
8 endowed institution interest and income fund to be administered by the commissioner of school
9 and public lands. Any investments of money in the fund shall be made by the State Investment
10 Council. No allocations or expenditures may be made from the fund except as provided in
11 § 5-10-1.2. The fund shall be declared a participating fund and it shall be credited for all interest,
12 dividends, and other income earned on fund balances, in accordance with the provisions of
13 section 1 of this Act.

14 Section 5. That § 5-10-6 be amended to read as follows:

15 5-10-6. The commissioner of school and public lands, after any adjustments that have been
16 made pursuant to section 1 of this Act, shall make a division and apportionment of all funds
17 derived from the leasing of school and public lands, from ~~accrued~~ interest, dividends, and other
18 income on all invested funds derived from the sale of school and public lands, and from ~~accrued~~
19 interest, dividends, and other income on invested funds derived from the five percent paid to the
20 state by the United States on sales of public lands within the state, such apportionment to be
21 made among the counties, and the educational, penal, and charitable institutions, as provided by
22 law.

23 Section 6. That § 5-10-18 be amended to read as follows:

24 5-10-18. The moneys of the common school permanent fund and other educational funds

1 shall be invested by the State Investment Council, in accordance with the provisions of § 4-5-27.

2 Section 7. That § 5-10-18.1 be repealed.

3 ~~—5-10-18.1. Whenever in the carefully considered judgment of the state investment officer,~~
4 ~~securities of the United States held in trust by the state as a part of the permanent school fund~~
5 ~~portfolio, can be sold below their cost, or exchanged at less than their purchase price, in order~~
6 ~~to secure the highest income compatible with safe investment, the investment officer, with the~~
7 ~~approval of the Governor as provided in S.D. Const., Art. VIII, § 12, may do so:~~

8 Section 8. That § 5-10-18.2 be repealed.

9 ~~—5-10-18.2. If exchange or sale and repurchase as provided in § 5-10-18.1 is made, all losses~~
10 ~~to the corpus of the fund shall be restored out of the first additional proceeds of the new~~
11 ~~investment, or if gains are realized on the exchange or sale of securities, such gains may be used~~
12 ~~to restore losses, until the entire corpus of the fund has been fully restored:~~

13 ~~—If the amount so to be restored exceeds one hundred thousand dollars, such restoration may~~
14 ~~be amortized over the period between the sale of the securities at a discount and the date of their~~
15 ~~maturity:~~

16 Section 9. That § 13-13-1 be amended to read as follows:

17 13-13-1. ~~Upon receipt of the certificate of the state treasurer as provided in § 5-10-2 the~~
18 The commissioner of school and public lands, after any adjustments that have been made
19 pursuant to section 1 of this Act, shall apportion the school funds as follows: ~~he~~ the
20 commissioner shall ascertain from the division of education the total number of resident pupils
21 in average daily membership in all schools in each school district and the total number of pupils
22 in average daily membership in all schools in the state, and on that basis of the school population,
23 ~~he~~ the commissioner shall apportion to each school district, pro rata, such share, as its population
24 of resident pupils in average daily membership in schools within the school district's boundaries

1 and resident pupils attending private schools, bears to the number of pupils in average daily
2 membership in all schools in the state. The funds to be apportioned include funds derived from
3 the lease of school lands, the lease of public lands not apportioned to any educational, penal, or
4 charitable institution, the ~~accrued~~ interest, dividends, and other income on invested funds derived
5 from the sale of school lands and public lands not apportioned to any such institution, and the
6 ~~accrued~~ interest, dividends, and other income on invested funds derived from the five percent
7 paid by the United States on sale of public lands within the state.

8 Section 10. Whereas, this Act is necessary for the support of the state government and its
9 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full
10 force and effect from and after its passage and approval.

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

552E0462 **SENATE AGRICULTURE AND NATURAL RESOURCES**
COMMITTEE ENGROSSED NO. SB 94 - 01/25/2001

Introduced by: Senators Bogue, Duxbury, Koetzle, McCracken, Moore, Reedy, and
Sutton (Dan) and Representatives Jaspers, Bartling, Hennies (Thomas),
Jensen, Kloucek, McCaulley, Michels, Monroe, Nachtigal, Rhoden, Sebert,
and Slaughter

1 FOR AN ACT ENTITLED, An Act to establish a statute of limitations for veterinary services.

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

3 Section 1. An action against a veterinarian or any member of a veterinarian's staff for
4 malpractice, error, mistake, or failure to cure, whether based upon contract or tort, may be
5 commenced only within three years after the alleged malpractice, error, mistake, or failure to
6 cure has occurred. However, the provisions of this section do not prohibit any counterclaim for
7 malpractice, error, mistake, or failure to cure, as a defense to any action for services brought by
8 a veterinarian.