

# Senate Daily Reader

**Friday, February 16, 2001**

<b>Bills Included</b>				
HB 1019	HB 1020	HB 1032	HB 1094	HB 1126
HB 1134	HB 1148	HB 1149	HB 1154	HB 1177
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# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

400E0218

## HOUSE ENGROSSED NO. **HB 1019** - 02/05/2001

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 revise certain requirements and fees regarding various  
2 agricultural related licenses, certificates, registrations, and inspections and to provide for the  
3 disposition of certain fees.

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

5 Section 1. That § 38-12A-11 be amended to read as follows:

6 38-12A-11. No person may sell, distribute, advertise, solicit orders for, offer for sale, expose  
7 for sale, or transport seed without first obtaining from the Department of Agriculture a permit  
8 to engage in the business. A permit is not required of any person selling or advertising seed of  
9 ~~his~~ the person's own production in South Dakota, ~~provided that~~ if the seed is stored or delivered  
10 to a purchaser only on or from the farm or premises where grown or the production and sale of  
11 seed is not a primary endeavor and primary source of income to such persons. Each permit shall  
12 expire on the ~~first~~ thirty-first day of ~~July~~ December of the year following the date of issue. The  
13 ~~annual~~ biennial fee for a seed permit is: Seedsman ~~permit~~ -- ~~one~~ two hundred fifty dollars; Seed  
14 ~~producers permit~~ producer -- ~~twenty-five~~ fifty dollars; Seed ~~dealers permit~~ dealer -- ~~twenty-five~~  
15 fifty dollars. ~~A seed dealer's permit may be issued without fee when all lots of seed are furnished~~

1 ~~to him by seedsman or seed producer with valid South Dakota permits and all of those seedsmen~~  
2 ~~and seed producers include application for the seed dealers permit as part of their application.~~  
3 ~~All fees collected under the provisions of this chapter shall be paid into the state treasury and~~  
4 ~~credited to the general fund.~~

5 Section 2. That chapter 38-12A be amended by adding thereto a NEW SECTION to read  
6 as follows:

7 Fees collected pursuant to this chapter shall be deposited with the state treasurer in a special  
8 revenue fund known as the seed fund. This fund shall consist of moneys from public and private  
9 sources including legislative appropriations, federal grants, gifts, and the fees received pursuant  
10 to this chapter. The fund shall be maintained separately and be administered by the department  
11 in order to defray the expenses of all activities associated with administering the seed program.  
12 Expenditures from the fund shall be appropriated through the normal budget process.  
13 Unexpended funds and interest shall remain in the fund until appropriated by the Legislature.

14 Section 3. That § 38-18-3 be amended to read as follows:

15 38-18-3. Any person owning, leasing, or possessing bees shall file an application registering  
16 the bees and each apiary with the secretary. The application shall be filed before the first day of  
17 ~~June~~ February each year or within ten days of acquiring ownership or possession of any bees or  
18 apiary or before moving bees into the state and shall contain each location by legal description,  
19 the name of the landowner or lessee of the location, the number of colonies of bees in each  
20 apiary, and any other information required by the secretary. The landowner or lessee authorizing  
21 the placement of an apiary on a location may revoke the authorization by notifying the owner of  
22 the apiary and the secretary in writing. Such revocation of authorization by a landowner or lessee  
23 is not sufficient justification for a contested case hearing. If any person fails to register an apiary  
24 within the time specified by this section, the landowner authorization for that location is invalid.

1 A registration application shall be approved or rejected by the secretary in compliance with this  
2 chapter or rules promulgated pursuant to chapter 1-26. The secretary may deny applications,  
3 revoke permits, or conduct contested case hearings in accordance with rules promulgated  
4 pursuant to chapter 1-26. Any person failing to register ~~his~~ an apiary or bees pursuant to this  
5 section is guilty of a Class 2 misdemeanor. In addition to the criminal penalty imposed by this  
6 section, a person is subject to a civil penalty not to exceed five hundred dollars for each location  
7 that ~~he~~ the person has failed to register.

8 Section 4. That § 38-18-5 be amended to read as follows:

9 38-18-5. Any person registering an apiary pursuant to § 38-18-3 shall pay a registration fee  
10 of ~~ten~~ eleven dollars per permanent location and thirty dollars per temporary location. ~~The~~  
11 ~~registration fee shall be deposited in the general fund.~~

12 Section 5. That § 38-18-36 be amended to read as follows:

13 38-18-36. There is hereby imposed upon each bee location within the state, ~~on or before the~~  
14 ~~first day of June of each year~~ at the time of registration, a continuing annual assessment of one  
15 dollar per location. The Department of Agriculture shall collect and deposit the funds in the  
16 honey industry fund.

17 Section 6. That chapter 38-18 be amended by adding thereto a NEW SECTION to read as  
18 follows:

19 Except as provided by § 38-18-36, fees collected pursuant to this chapter shall be deposited  
20 with the state treasurer in a special revenue fund known as the apiary fund. This fund shall  
21 consist of moneys from public and private sources including legislative appropriations, federal  
22 grants, gifts, and the fees received pursuant to this chapter. The fund shall be maintained  
23 separately and be administered by the department in order to defray the expenses of all activities  
24 associated with administering the apiary program. Expenditures from the fund shall be

1 appropriated through the normal budget process. Unexpended funds and interest shall remain in  
2 the fund until appropriated by the Legislature.

3 Section 7. That § 38-19-1 be amended to read as follows:

4 38-19-1. Terms, as used in this chapter, mean:

5 (1) "Available phosphoric acid," the sum of the water-soluble and the citrate-soluble  
6 phosphoric acid and reported as phosphorus pentoxide;

7 (2) "Brand," a term, design, or trademark used in connection with one or several grades  
8 of commercial fertilizer;

9 (3) "Bulk commercial fertilizer," any volume of a commercial fertilizer which is  
10 transported or held for resale in an immediate reusable container in undivided  
11 quantities greater than one hundred pounds net dry weight or fifty-five U.S. gallons  
12 liquid measure;

13 (4) "Bulk commercial fertilizer storage facility," any area, location, tract of land, building,  
14 structure, or premises constructed in accordance with rules promulgated by the  
15 secretary for the storage of bulk commercial fertilizer;

16 (5) "Commercial fertilizer," any substance containing any recognized plant nutrient which  
17 is used for its plant nutrient content and which is designed for use or claimed to have  
18 value in promoting plant growth, except unmanipulated animal and vegetable  
19 manures, marl, lime, limestone, lime sludge, sewage sludge, wood ashes, gypsum,  
20 compost, and other products excluded by rule;

21 (5A) "Compost," a group of organic residues or a mixture of organic residues and soil that  
22 have been piled, moistened, and allowed to undergo aerobic biological decomposition;

23 (6) "Distribute," to import, consign, manufacture, produce, compound, mix, or blend  
24 commercial fertilizer, or to offer for sale, sell, barter, or otherwise supply commercial

- 1 fertilizer in this state;
- 2 (7) "Distributor," any person who distributes commercial fertilizer in this state;
- 3 (8) "Fertilizer material," a commercial fertilizer which either:
- 4 (a) Contains important quantities of no more than one of the primary plant  
5 nutrients: nitrogen, phosphoric acid, and potash; or
- 6 (b) Has approximately eighty-five percent of its plant nutrient content present in  
7 the form of a single chemical compound; or
- 8 (c) Is derived from a plant or animal residue or by-product or a natural material  
9 deposit which has been processed in such a way that its content of primary  
10 plant nutrients has not been materially changed except by purification and  
11 concentration;
- 12 (9) "Grade," the percentage of total nitrogen, available phosphoric acid, and soluble  
13 potash stated in whole numbers in the same terms, order, and percentages as in the  
14 guaranteed analysis. However, speciality fertilizers may be guaranteed in fractional  
15 units of less than one percent of total nitrogen, available phosphoric acid, and soluble  
16 potash. Fertilizer materials, bone meal, manures, and similar raw materials may be  
17 guaranteed in fractional units;
- 18 (10) "Investigational allowance," allowance for variations inherent in the taking,  
19 preparation, and analysis of an official sample of commercial fertilizer;
- 20 (11) "Label," a display of written, printed, or graphic matter on or attached to the  
21 immediate container of any article and the outside container or wrapper of the retail  
22 package, or a statement or document accompanying a commercial fertilizer;
- 23 (12) "Labeling," all written, printed, or graphic matter, upon or accompanying any  
24 commercial fertilizer or advertisements, brochures, posters, television, and radio

- 1           announcements used in promoting the sale of commercial fertilizer;
- 2       (13) "Licensee," any person who receives a license to distribute a commercial fertilizer
- 3           under the provisions of this chapter;
- 4       (14) "Metric ton," a net weight of one thousand kilograms;
- 5       (15) "Mixed fertilizer," a commercial fertilizer containing any combination or mixture of
- 6           fertilizer materials;
- 7       (16) "Nitrogen," the element of nitrogen;
- 8       (17) "Official sample," any sample of commercial fertilizer taken by the secretary of
- 9           agriculture or ~~his~~ department agent according to methods prescribed by this chapter;
- 10      (18) "Percent" or "percentage," the percentage by weight;
- 11      (19) "Primary nutrients," nitrogen, available phosphoric acid, and soluble potash;
- 12      (20) "Recognized plant nutrients," primary nutrients, secondary nutrients, and micro
- 13           nutrients;
- 14      (21) ~~"Registrant," any person who registers specialty fertilizers for distribution under the~~
- 15           ~~provisions of this chapter to nonregistrants;~~
- 16      (22) "Secondary and micro nutrients," those nutrients other than primary nutrients that are
- 17           essential for the normal growth of plants and that may need to be added to the growth
- 18           medium. Secondary plant nutrients include calcium, magnesium, and sulfur; micro
- 19           plant nutrients include boron, chlorine, cobalt, copper, iron, manganese, molybdenum,
- 20           sodium, and zinc;
- 21      (23) "Secretary," the secretary of the Department of Agriculture;
- 22      (24) "Sell:"
- 23           (a)    The act of selling, transferring ownership;
- 24           (b)    The offering and exposing for sale, exchange, or distribution;

1 (c) Giving away; or

2 (d) Receiving, accepting, holding or possession for sale, exchange, or distribution;

3 (24A) "Sewage sludge," "sludge," "biosolids," any solid, semisolid, or liquid residue  
4 removed during the treatment of municipal or domestic sewage by publicly-owned  
5 treatment works regulated under 40 CFR Part 503, as amended to January 1, 1995,  
6 and the Clean Water Act as amended to January 1, 1995;

7 (25) "Soluble potash," that portion of the potash contained in fertilizers or fertilizer  
8 materials which is soluble in an aqueous ammoniacal solution of 0.8% ammonium  
9 oxalate, after boiling in a 1.14% solution of ammonium oxalate and reported as  
10 potassium oxide;

11 (26) "Speciality fertilizer," a commercial fertilizer, lime, lime sludge, compost, sewage  
12 sludge, or products containing sewage sludge distributed for nonfarm use;

13 (27) "Ton," a net weight of two thousand pounds avoirdupois.

14 Section 8. That § 38-19-2.1 be amended to read as follows:

15 38-19-2.1. No person whose name appears on the label of a commercial fertilizer or who  
16 manufactures or mixes a commercial fertilizer in this state may distribute that fertilizer until he  
17 the person has obtained a distribution license from the secretary of agriculture. A distribution  
18 license is required for each location where commercial fertilizer is manufactured or mixed. The  
19 license may be granted only after payment of a fee of twenty-five dollars by the licensee. Each  
20 license expires on the thirty-first day of December of each the year. ~~This section does not apply~~  
21 ~~to specialty fertilizers, which registration requirements appear in § 38-19-3.1~~ after the date of  
22 issuance. Any distribution license application for renewal received after the thirty-first day of  
23 January of any year shall be assessed a late payment fee equal to the original license fee, which  
24 shall be added to the original fee and shall be paid by the applicant before the renewal license is



1 issued. Any person who fails to obtain the proper license is subject to a civil penalty not to  
2 exceed one thousand dollars per violation. Notice ~~must~~ shall be given by registered mail prior  
3 to the imposition of any civil penalty ~~being imposed~~.

4 Section 9. That § 38-19-2.2 be amended to read as follows:

5 38-19-2.2. An application for a commercial fertilizer distribution license shall include the  
6 name and address of the licensee ~~and the name and address of each distribution point operated~~  
7 ~~by the licensee in the state~~. The licensee's name and address as it appears on the license shall  
8 appear on all labels and pertinent invoices used by the licensee and on all bulk storage units  
9 operated by the licensee in this state.

10 Section 10. That § 38-19-3.1 be repealed.

11 ~~— 38-19-3.1. No person may distribute in this state a specialty fertilizer to a nonregistrant until~~  
12 ~~it is registered with the secretary of agriculture by the manufacturer or distributor whose name~~  
13 ~~appears on the label. An application in duplicate for each brand and product name of each grade~~  
14 ~~of specialty fertilizer shall be made on a form furnished by the secretary and shall be accompanied~~  
15 ~~with a registration and inspection fee of twenty-five dollars for each brand and product name of~~  
16 ~~each grade. Two labels for each brand and product name of each grade shall accompany the~~  
17 ~~application. Upon the approval of an application by the secretary, a copy of the registration shall~~  
18 ~~be furnished the applicant. All registrations expire on the thirty-first day of December of each~~  
19 ~~year.~~

20 Section 11. That § 38-19-3.2 be repealed.

21 ~~— 38-19-3.2. Any specialty fertilizer containing pesticides and meeting the requirements of~~  
22 ~~chapter 38-20A is exempt from annual registration as required by § 38-20A-4.~~

23 Section 12. That § 38-19-4.1 be repealed.

24 ~~— 38-19-4.1. An application for registration shall include the following:~~

1 ~~—(1)— Name and address of the manufacturer or distributor;~~

2 ~~—(2)— The brand and product name;~~

3 ~~—(3)— The grade;~~

4 ~~—(4)— The guaranteed analysis;~~

5 ~~—(5)— The net weight.~~

6 Section 13. That § 38-19-10 be amended to read as follows:

7 38-19-10. There is paid to the secretary of agriculture for all commercial fertilizer distributed  
8 ~~to nonlicensees in this state an inspection fee of twenty up to twenty-five cents per ton. This fee~~  
9 ~~is increased by thirty cents per ton which increase shall be deposited annually into the~~  
10 ~~groundwater protection fund to fund the groundwater research and education program~~  
11 ~~established pursuant to § 46A-1-85 for five years, at which point the fertilizer inspection fee for~~  
12 ~~each ton of fertilizer shall be twenty cents per ton. The secretary of agriculture may promulgate~~  
13 ~~rules pursuant to chapter 1-26 to provide for an increase in the tonnage inspection fee of up to~~  
14 ~~five cents per ton. Such increase shall be commensurate with the overall cost of conducting~~  
15 ~~commercial fertilizer inspections, investigations, monitoring, providing information and~~  
16 ~~education, and taking enforcement action against violators. The secretary of agriculture shall~~  
17 ~~promulgate rules pursuant to chapter 1-26 to establish the inspection fee.~~

18 ~~— However, sales or exchanges between importers, manufacturers, or licensees are exempt~~  
19 ~~from the inspection fee. Also, the inspection fee does not apply to specialty fertilizer.~~

20 Section 14. That § 38-19-18 be amended to read as follows:

21 38-19-18. For the purposes of this chapter, a commercial fertilizer is deemed to be  
22 adulterated:

23 (1) If it contains any deleterious or harmful ingredient in sufficient amount to render it  
24 injurious to beneficial plant life when applied in accordance with directions for use on

1 the label, or if adequate warning statements or directions for use, which may be  
2 necessary to protect plant life, are not shown on the label;

3 (2) If its composition falls below or differs from that which it is purported to possess by  
4 its labeling; ~~or~~

5 (3) If it contains unwanted crop seed or weed seed; or

6 (4) If it contains any deleterious or harmful ingredient in sufficient amount that, if the  
7 product is used in accordance with label instructions, it renders the commodity that  
8 is derived from the treated crop injurious to humans, wildlife, livestock, or the  
9 environment or renders the commodity unsaleable.

10 Section 15. That § 38-19-20 be repealed.

11 ~~38-19-20. The secretary of agriculture, pursuant to rules promulgated pursuant to the~~  
12 ~~provisions of chapter 1-26, may cancel the license of any person or registration of any~~  
13 ~~commercial fertilizer, or refuse to issue a license or registration as herein provided, upon~~  
14 ~~satisfactory evidence that the licensee or registrant has used fraudulent or deceptive practices in~~  
15 ~~evasions or attempted evasions of the provisions of this chapter or any rules promulgated~~  
16 ~~hereunder. However, no license or registration may be revoked or refused until the licensee or~~  
17 ~~registrant has been given an opportunity to appear for a hearing by the secretary, such notice and~~  
18 ~~hearing to follow rules promulgated therefore pursuant to the provisions of chapter 1-26.~~

19 Section 16. That chapter 38-19 be amended by adding thereto a NEW SECTION to read as  
20 follows:

21 Each license applicant or licensee shall, upon request of the secretary, furnish copies of labels  
22 and labeling in order to permit the secretary to determine compliance with the provisions of this  
23 chapter.

24 Section 17. That chapter 38-19 be amended by adding thereto a NEW SECTION to read as

1 follows:

2 The secretary of agriculture may reject the commercial fertilizer distribution license  
3 application of any firm not in compliance with the provisions of this chapter and may cancel the  
4 commercial fertilizer license of any firm subsequently found not to be in compliance with any  
5 provision of this chapter. However, no commercial fertilizer distribution license may be refused  
6 or canceled unless the licensee has been given an opportunity to be heard before the secretary  
7 and to amend the application in order to comply with the requirements of this chapter.

8 Section 18. That § 38-19A-4 be amended to read as follows:

9 38-19A-4. Each separately identified soil conditioner product shall be registered before being  
10 distributed in this state. The application for registration shall be submitted to the secretary of  
11 agriculture on the form furnished or approved by the secretary and shall be accompanied by a  
12 fee of twenty-five dollars per product. Upon approval by the secretary, a copy of the registration  
13 shall be furnished to the applicant. Each registration shall expire on December thirty-first of the  
14 year following the date of issuance. Each registrant shall submit to the secretary a copy of labels  
15 and advertising literature with the registration request for each soil amendment.

16 Section 19. That § 38-19A-11 be amended to read as follows:

17 38-19A-11. Every distributor shall file with the secretary, on forms furnished by the secretary  
18 of agriculture, ~~semiannual statements~~ an annual statement for ~~periods~~ the period ending  
19 December thirty-first ~~and June thirtieth~~ of each year setting forth the number of net tons of each  
20 soil amendment distributed in the state during that period. The report shall be due within thirty  
21 days following each ~~semiannual~~ annual reporting period. If the report is not filed and the payment  
22 of the inspection fee is not made within the time period specified, a collection fee amounting to  
23 ten percent of the amount shall be assessed against the registrant. However, the minimum  
24 collection fee is ten dollars. The secretary ~~shall have the authority to~~ may examine such records

1 to verify statements of tonnage. Such statement shall be accompanied by payment of an  
2 inspection fee of twenty cents per ton for all soil amendments distributed in this state. The  
3 secretary may allow payment of inspection fees on a calculated equivalent of volume to tons.

4 Section 20. That § 38-21-17 be amended to read as follows:

5 38-21-17. No person may engage in the business of applying pesticides to the lands of  
6 another, advertise as being in the business of applying pesticides to the lands of another at any  
7 time, apply pesticides while in the performance of his duties as a governmental employee or  
8 otherwise act as a commercial applicator without an applicator's license issued by the secretary  
9 of agriculture, unless exempted under the provisions of this chapter. The secretary shall require  
10 ~~an annual~~ a fee of twenty-five dollars for each applicator license issued. The secretary of  
11 agriculture shall issue an applicator license to government employees without a license fee. The  
12 fee exempt license is valid only when the applicator is applying pesticides in the course of his  
13 employment for the governmental entity. Any person who violates this section is subject to a civil  
14 penalty not to exceed five thousand dollars per violation.

15 Section 21. That § 38-21-26 be amended to read as follows:

16 38-21-26. A licensed applicator's license shall expire on the last day of February of the  
17 second year following the year of issue unless it has been revoked or suspended prior thereto by  
18 the secretary of agriculture for cause, as provided for in § 38-21-44.

19 Section 22. That § 38-21-33.1 be amended to read as follows:

20 38-21-33.1. It is a Class 2 misdemeanor for any person to act in the capacity of a licensed  
21 pesticide dealer or advertise as a licensed pesticide dealer at any time without first having  
22 obtained ~~an annual~~ a license from the Department of Agriculture ~~which that~~ shall expire on the  
23 last day of February of the second year following the year of issue. In addition to any criminal  
24 penalty, any person who violates this section is subject to a civil penalty not to exceed five

1 thousand dollars per violation.

2 Section 23. That § 38-21-33.5 be amended to read as follows:

3 38-21-33.5. Application for a license shall be accompanied by a fifty dollar ~~annual~~ license fee  
4 and shall be on a form prescribed by the secretary of agriculture. ~~The annual license fee for any~~  
5 ~~applicant who also holds a licensed applicator license shall be twenty-five dollars.~~

6 Section 24. That § 38-21-42 be amended to read as follows:

7 38-21-42. Any person holding a current valid license or certification may renew such license  
8 or certification for the next ~~year~~ biennium without taking another examination unless the  
9 secretary of agriculture determines that additional knowledge related to classifications for which  
10 the applicant has applied makes a new examination necessary or if additional demonstration of  
11 qualifications is determined necessary for a person who has had a license suspended or revoked  
12 or has had one or more previous violations of this chapter.

13 Section 25. That § 38-21-43 be amended to read as follows:

14 38-21-43. If the application for renewal of any license provided for in this chapter is not filed  
15 prior to March first in any year of expiration, a penalty of fifty dollars shall be assessed and added  
16 to the original fee and shall be paid by the applicant before the renewal license is issued.

17 Section 26. That § 38-24B-1 be amended to read as follows:

18 38-24B-1. Terms, as used in this chapter, ~~unless the context otherwise requires~~, mean:

19 (1) "Annual plants," ornamental or vegetable plants which are commonly grown in  
20 movable containers and transplanted to out of doors locations and which do not live  
21 for more than one growing season;

22 (2) "Dealer," any person who is not a resident nurseryman:

23 (a) Who buys nursery stock for the purpose of reselling or reshipping;

24 (b) Who makes landscape plans using nursery stock and negotiates in the purchase

1 of nursery stock for his clients; or

2 (c) Who contracts to furnish and plant nursery stock;

3 (3) "Decorative plants," indoor plants which are commonly grown and sold in movable  
4 containers, and which are not adapted for cultivation out of doors because of climatic  
5 conditions and natural peculiarities of habit or growth and because of the purpose of  
6 their cultivation;

7 (4) "Department," the State Department of Agriculture;

8 (5) "Nursery," any grounds or premises on which nursery stock is being grown,  
9 fumigated, packed, displayed, or stored, if such stock is or will either be sold or  
10 offered for sale or distribution;

11 (6) "Nurseryman," any person who owns, leases, manages, or is in charge of a nursery;

12 (7) "Nursery stock," trees, shrubs, or other plants having a persistent woody stem; all  
13 herbaceous perennials; and parts of either of those which are capable of propagation,  
14 except for seeds, true bulbs, rhizomes, corms, and tubers while in a dormant  
15 condition;

16 (8) "Pest," any animal, plant, insect, or infectious transmissible or contagious disease, or  
17 other organism which is or may be dangerous or detrimental to the plant industry of  
18 the state;

19 (9) "Regulated pest," any pest which the secretary determines is sufficiently detrimental  
20 to the plant industry of the state to warrant control or eradication measures;

21 (10) "Related plant products," seed, true bulbs, rhizomes, corms, roots, and tubers of  
22 nursery stock while in a dormant condition and nonviable plant to include forced  
23 blooming plants and Christmas trees;

24 (11) "Resident nurseryman," any nurseryman in this state who grows all or a portion of the

1 nursery stock that ~~he~~ the nurseryman sells or distributes;

2 (12) ~~"Restricted dealer," a dealer who limits his nursery stock to only roses or herbaceous~~  
3 ~~perennials;~~

4 (13) "Secretary," the state secretary of agriculture;

5 (14) "Sod," grassy surface soil held together by matted roots of grass cultivors, mixtures,  
6 or blends of grass cultivors and used in residential and commercial landscape;

7 (15) ~~"Special nurseryman," a resident nurseryman who grows only one species of nursery~~  
8 ~~stock and does less than five hundred dollars in sales each year;~~

9 (16) "Viable," capable of germination or living and developing under normal growing  
10 conditions into a plant which would be typical in height, spread, caliper, dimension,  
11 condition, quality, and age for a plant of that species.

12 Section 27. That § 38-24B-7 be amended to read as follows:

13 38-24B-7. The Department of Agriculture may issue a certificate of inspection to any  
14 nurseryman, operating as a resident nurseryman or dealer, whose nursery stock has been  
15 officially inspected and found to be viable and free from pests. The ~~annual~~ biennial fee for the  
16 inspection and certification is: one hundred fifty dollars plus four dollars for each acre over one  
17 acre of inspected plants. A conservation district that plants less than thirty acres of nursery stock  
18 in a year or a dealer who is in business for less than three months in a year and only sells plants  
19 obtained from an inspected in-state nursery may obtain a certificate of inspection at the reduced  
20 fee of one hundred dollars.

21 ~~—(1)— Resident nurseryman: thirty dollars plus thirty cents for each acre of growing field;~~

22 ~~—(2)— Special nurseryman: ten dollars;~~

23 ~~—(3)— Dealer: thirty dollars; and~~

24 ~~—(4)— Restricted dealer: twenty dollars.~~



1 ~~All fees collected pursuant to this section shall be placed in the general fund.~~

2 Section 28. That § 38-24B-9 be amended to read as follows:

3 38-24B-9. Any nurseryman whose location is outside the state may obtain a certificate of  
4 inspection to sell nursery stock within the state by filing a certified copy of ~~his~~ the official  
5 inspection certificate and paying a ~~thirty~~ one hundred fifty dollar fee to the secretary of  
6 agriculture. The secretary may waive the payment of the fee if the applicant's state does not  
7 require a fee by South Dakota applicants for a like certificate in that state.

8 Section 29. That § 38-24B-12 be amended to read as follows:

9 38-24B-12. Any grower or dealer of decorative plants, annual plants, sod, or related plant  
10 products may apply to the department for a certificate of inspection. The Department of  
11 Agriculture may issue a certificate of inspection to the person whose decorative plants, annual  
12 plants, sod, or related plant products have been officially inspected and found free from pests.  
13 The fee for inspection and certification is ~~thirty~~ one hundred fifty dollars plus ~~thirty cents~~ two  
14 dollars for each acre of growing field and ~~thirty cents~~ two dollars for each one thousand square  
15 feet of growing greenhouse.

16 Section 30. That chapter 38-24B be amended by adding thereto a NEW SECTION to read  
17 as follows:

18 Fees collected pursuant to this chapter shall be deposited with the state treasurer in a special  
19 revenue fund known as the nursery fund. This fund shall consist of moneys from public and  
20 private sources including legislative appropriations, federal grants, gifts, and the fees received  
21 pursuant to this chapter. The fund shall be maintained separately and be administered by the  
22 department in order to defray the expenses of all activities associated with administering the  
23 nursery program. Expenditures from the fund shall be appropriated through the normal budget  
24 process. Unexpended funds and interest shall remain in the fund until appropriated by the

1 Legislature.

2 Section 31. That § 39-14-40.1 be amended to read as follows:

3 39-14-40.1. No person who manufactures a commercial feed within the state, or whose name  
4 appears on the label of a commercial feed as guarantor, may distribute a commercial feed in the  
5 state without first obtaining a commercial feed license from the secretary on forms provided by  
6 the secretary that identify the manufacturer's or guarantor's name, place of business, and location  
7 of each manufacturing facility in the state and such other appropriate information necessary for  
8 enforcement of this chapter. The fee for a new or renewal license is fifty dollars per in-state  
9 location or manufacturer name and location listed on a commercial feed label, except that in the  
10 case of in-state manufacturers who manufacture only customer formula feeds, no fee may be  
11 collected. Each license expires on the thirty-first of December of ~~each~~ the year after the date of  
12 issuance. Commercial feed license applications for renewal received after the thirty-first of  
13 January of each year shall be assessed a late payment fee equal to the original license fee, which  
14 shall be added to the original fee and shall be paid by the applicant before the renewal license is  
15 issued.

16 Section 32. That § 39-14-43 be amended to read as follows:

17 39-14-43. An inspection fee established in rules promulgated by the secretary of agriculture  
18 pursuant to chapter 1-26, but not to exceed twenty-four cents per ton, shall be paid on  
19 commercial feeds distributed in this state by the person who distributes the commercial feed to  
20 the consumer subject to the following:

- 21 (1) No fee need be paid on a commercial feed if the payment has been made by a previous  
22 distributor;
- 23 (2) No fee need be paid on customer-formula feeds;
- 24 (3) No fee need be paid on commercial feeds used as ingredients for the manufacture of

1 commercial feeds provided the fee has been paid by a previous distributor. If the fee  
2 has been paid, credit is given for the payment;

3 (4) In the case of a pet food which is distributed in the state only in packages of ten  
4 pounds or less, ~~an annual~~ a biennial fee of fifty dollars per product shall be paid in lieu  
5 of the inspection fee specified above;

6 (5) In the case of a specialty pet food which is distributed in the state only in packages of  
7 ten pounds or less, ~~an annual~~ a biennial fee of twenty-five dollars per product shall be  
8 paid in lieu of the inspection fee specified above; and

9 (6) The minimum inspection fee shall be ~~ten~~ twenty dollars per ~~six-month~~ twelve-month  
10 period.

11 Section 33. That § 39-14-44 be amended to read as follows:

12 39-14-44. Any person who is liable for payment of an inspection fee shall:

13 (1) File, not later than the last day of January ~~and July~~ of each year, ~~a semi-annual~~ an  
14 annual statement, setting forth the number of net tons of commercial feeds distributed  
15 in this state during the preceding ~~six~~ twelve months. Upon filing such statement, the  
16 person shall pay the inspection fee at the rate stated in § 39-14-43. Inspection fees  
17 that are due and have not been remitted to the Department of Agriculture ~~within thirty~~  
18 ~~days following the due date~~ by January thirty-first of each year shall have a late  
19 payment fee of ten percent or ~~ten~~ twenty dollars, whichever is greater, added to the  
20 amount due when payment is finally made. The assessment of this late payment fee  
21 does not prevent the department from taking other actions as provided in this chapter;  
22 and

23 (2) Keep such records as may be necessary or required by the secretary of agriculture,  
24 pursuant to rules promulgated pursuant to chapter 1-26, to indicate accurately the

1           tonnage of commercial feed distributed in this state. The secretary may examine such  
2           records to verify statements of tonnage.

3           Failure to make an accurate statement of tonnage or to pay the inspection fee or comply with  
4 this section constitutes sufficient cause for cancellation of a commercial feed license or rejection  
5 of a commercial feed license application.

6           Section 34. That § 39-18-8 be amended to read as follows:

7           39-18-8. Upon approval by the secretary of agriculture, a copy of the registration of an  
8 animal remedy shall be forwarded to the applicant. All registrations are on ~~an annual~~ a biennial  
9 basis, expiring the thirty-first day of December of the year after the date of registration. ~~An~~  
10 ~~annual~~ A biennial registration fee of twenty-five dollars for each product shall be paid to the  
11 secretary upon application for registration.

12           Section 35. That § 38-18-27 be amended to read as follows:

13           38-18-27. Any person may request to enter into a compliance agreement with the secretary  
14 or that the secretary make additional inspections of bees, bee equipment, or honey houses. The  
15 person requesting the agreement ~~or the~~ shall pay a fee of fifty dollars per compliance agreement.  
16 If an inspection is conducted, the person requesting the inspection shall pay the secretary any  
17 extra expense incidental to such inspection plus mileage and per diem for inspectors' expenses.

18           Section 36. That § 38-19-12 be amended to read as follows:

19           38-19-12. Each licensed distributor of commercial fertilizer shall file with the secretary of  
20 agriculture on forms furnished by the secretary an annual statement for the period ending  
21 December thirty-first setting forth the number of net tons of each grade of commercial fertilizer  
22 distributed in this state during the reporting period. The report is due on or before the thirtieth  
23 of January following the close of the reporting period and on the basis of ~~his~~ the statement each  
24 licensed distributor of commercial fertilizer shall pay the inspection fee at the rate ~~stated in~~

1 pursuant to § 38-19-10. If more than one person is involved in the distribution of a commercial  
2 fertilizer, the distributor who imports, manufactures, or produces the commercial fertilizer is  
3 responsible for the inspection fee on products produced or brought into this state. The distributor  
4 shall separately list the inspection fee on the invoice to the licensee. The last licensee shall retain  
5 the invoices showing proof of inspection fees paid for three years and shall pay the inspection  
6 fee on commercial fertilizer brought into this state or produced before July 1, 2001, unless the  
7 distributor has reported and paid the fees. If the tonnage report is not filed and the payment of  
8 inspection fee is not made within thirty days after the end of the period, a collection fee  
9 amounting to ten percent (minimum ten dollars) of the amount shall be assessed against the  
10 licensee and the amount of fees due constitutes a debt and becomes the basis of a judgment  
11 against the licensee. The secretary may verify the records on which statements of tonnage are  
12 based and each licensed distributor of commercial fertilizer shall grant the secretary permission  
13 to verify the records on ~~his~~ the licensee's application for license and on each tonnage report. ~~If~~  
14 ~~more than one licensee is involved in a commercial fertilizer distribution chain, the last licensee~~  
15 ~~who distributes commercial fertilizer to a nonlicensee is responsible for filing the tonnage report~~  
16 ~~and paying the inspection fee.~~ The secretary may, ~~at his discretion,~~ revoke or refuse to renew the  
17 license of any licensee failing to comply with this section. No information furnished under this  
18 section may be disclosed by the secretary ~~or his agents~~ or anyone having access to tonnage  
19 reports if the disclosure will in any way divulge any part of the operations of a licensee.

20 Section 37. That § 38-24B-14 be amended to read as follows:

21 38-24B-14. A certificate issued pursuant to the provisions of this chapter is in effect for a  
22 period not to exceed ~~one year~~ two years and expires on December thirty-first of the year  
23 following the date of issue.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

400E0219

HOUSE AGRICULTURE AND NATURAL RESOURCES

COMMITTEE ENGROSSED NO. **HB 1020** -  
02/06/2001

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 revise certain dairy inspection fees.

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

3 Section 1. That § 40-32-25 be amended to read as follows:

4 40-32-25. A milk plant or marketing organization of milk, milk products, sheep milk or goat  
5 milk that processes or markets Manufacturing Grade or Grade A milk shall pay an inspection  
6 service fee for each dairy farm. The inspection fee shall be ~~twenty-five~~ fifty dollars per Grade A  
7 or ~~twelve dollars and fifty cents~~ twenty-five dollars per Manufacturing Grade dairy farm and be  
8 paid semiannually by July first and January first to the secretary.

9 Section 2. That § 40-32-26 be amended to read as follows:

10 40-32-26. A reinspection fee of ~~twenty-five~~ seventy-five dollars per inspection shall be paid  
11 to the secretary by the milk plant or marketing organization for each dairy farm inspection  
12 exceeding the required biannual Grade A or annual Manufacturing Grade farm facility inspection  
13 resulting from adverse actions such as farm permit suspension, degrade or unsanitary conditions  
14 to be corrected within a specified period of time.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

400E0315

## HOUSE JUDICIARY COMMITTEE ENGROSSED NO. **HB 1032** - 01/16/2001

Introduced by: The Committee on Judiciary at the request of the South Dakota  
Commission on Child Support

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to child support.

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

3 Section 1. That § 25-7-6.2 be amended to read as follows:

4 25-7-6.2. The child support obligation shall be established in accordance with the **combined**  
5 ~~monthly net income of both parents as provided in the~~ following schedule subject to such  
6 revisions or deviations as may be permitted pursuant to §§ 25-7-6.1 to ~~25-7-6.17~~ 25-7-6.18,  
7 inclusive. Except as provided in this chapter, the combined monthly net incomes of both parents  
8 shall be used in determining the obligation and divided proportionately between the parents based  
9 upon their respective net incomes. The noncustodial parent's proportionate share establishes the  
10 amount of the child support order.

11 If the obligation using only the noncustodial parent's monthly net income is an obligation  
12 within the emboldened areas of the schedule, that amount shall be compared to the noncustodial  
13 parent's proportionate share using both parents' monthly net incomes. The lesser amount  
14 establishes the noncustodial parent's child support order.

1	Combined						
2	Net						
3	Monthly	One	Two	Three	Four	Five	Six
4	Income	Child	Children	Children	Children	Children	Children
5	0-1,000	50	50	50	50	50	50
6	1,050	74	75	76	77	78	78
7	1,100	119	121	122	123	125	126
8	1,150	164	166	168	170	172	173
9	1,200	209	212	214	216	219	221
10	1,250	254	257	260	263	266	268
11	1,300	299	303	306	309	313	316
12	1,350	322	348	352	356	360	363
13	1,400	333	394	398	402	407	411
14	1,450	344	439	444	449	454	458
15	1,500	355	485	490	495	501	506
16	1,550	366	530	536	542	548	553
17	1,600	378	547	582	588	595	601
18	1,650	389	563	628	635	642	648
19	1,700	400	579	674	681	689	696
20	1,750	411	595	701	728	736	743
21	1,800	422	611	719	774	783	791
22	1,850	434	627	737	815	830	838
23	1,900	443	641	754	833	877	886
24	1,950	452	654	769	849	921	933
25	2,000	460	666	783	866	938	981
26	2,050	469	678	798	882	956	1,023
27	2,100	477	691	813	898	974	1,042
28	2,150	485	703	828	914	991	1,061



1	2,200	494	715	842	931	1,009	1,079
2	2,250	502	728	857	947	1,026	1,098
3	2,300	510	739	870	962	1,043	1,116
4	2,350	515	745	878	970	1,051	1,125
5	2,400	520	752	885	978	1,060	1,134
6	2,450	524	758	892	986	1,068	1,143
7	2,500	529	765	899	993	1,077	1,152
8	2,550	534	771	906	1,001	1,085	1,161
9	2,600	538	778	913	1,009	1,094	1,171
10	2,650	543	784	921	1,017	1,103	1,180
11	2,700	548	791	928	1,025	1,111	1,189
12	2,750	555	800	938	1,037	1,124	1,203
13	2,800	562	810	950	1,050	1,138	1,217
14	2,850	569	820	961	1,062	1,151	1,232
15	2,900	576	830	973	1,075	1,165	1,247
16	2,950	583	840	984	1,088	1,179	1,262
17	3,000	590	850	996	1,100	1,193	1,276
18	3,050	598	860	1,007	1,113	1,207	1,291
19	3,100	605	870	1,019	1,126	1,220	1,306
20	3,150	611	880	1,030	1,138	1,234	1,320
21	3,200	618	889	1,041	1,150	1,247	1,334
22	3,250	624	898	1,052	1,163	1,260	1,348
23	3,300	630	907	1,063	1,175	1,273	1,363
24	3,350	637	917	1,074	1,187	1,287	1,377
25	3,400	643	926	1,085	1,199	1,300	1,391
26	3,450	649	935	1,096	1,211	1,313	1,405
27	3,500	656	944	1,107	1,233	1,326	1,419
28	3,550	662	954	1,118	1,236	1,340	1,433
29	3,600	670	965	1,131	1,249	1,354	1,449

1	3,650	677	975	1,143	1,263	1,369	1,465
2	3,700	685	986	1,155	1,276	1,384	1,480
3	3,750	692	997	1,167	1,290	1,398	1,496
4	3,800	700	1,007	1,180	1,303	1,413	1,512
5	3,850	707	1,018	1,192	1,317	1,428	1,527
6	3,900	715	1,028	1,204	1,330	1,442	1,543
7	3,950	723	1,039	1,216	1,344	1,457	1,559
8	4,000	729	1,049	1,227	1,356	1,470	1,573
9	4,050	736	1,058	1,238	1,369	1,483	1,587
10	4,100	742	1,067	1,249	1,381	1,497	1,601
11	4,150	749	1,077	1,261	1,393	1,510	1,616
12	4,200	755	1,086	1,272	1,405	1,523	1,630
13	4,250	762	1,096	1,283	1,417	1,536	1,644
14	4,300	768	1,105	1,294	1,429	1,549	1,658
15	4,350	775	1,114	1,305	1,442	1,563	1,672
16	4,400	781	1,124	1,316	1,454	1,576	1,686
17	4,450	788	1,133	1,327	1,466	1,589	1,700
18	4,500	794	1,143	1,338	1,478	1,602	1,714
19	4,550	801	1,152	1,349	1,490	1,615	1,729
20	4,600	807	1,161	1,359	1,502	1,628	1,742
21	4,600	812	1,168	1,368	1,512	1,639	1,754
22	4,700	817	1,176	1,377	1,522	1,650	1,765
23	4,750	822	1,183	1,386	1,532	1,661	1,777
24	4,800	826	1,190	1,396	1,542	1,672	1,789
25	4,850	831	1,198	1,405	1,552	1,683	1,800
26	4,900	836	1,205	1,414	1,562	1,694	1,812
27	4,950	841	1,213	1,423	1,572	1,705	1,824
28	5,000	846	1,220	1,432	1,583	1,716	1,836
29	5,050	851	1,228	1,441	1,593	1,727	1,847

1	5,100	856	1,235	1,451	1,603	1,737	1,859
2	5,150	861	1,243	1,460	1,613	1,748	1,871
3	5,200	866	1,250	1,469	1,623	1,759	1,883
4	5,250	871	1,257	1,478	1,633	1,770	1,894
5	5,300	876	1,265	1,487	1,643	1,781	1,906
6	5,350	880	1,272	1,496	1,653	1,792	1,918
7	5,400	885	1,280	1,505	1,663	1,803	1,929
8	5,450	891	1,288	1,516	1,675	1,816	1,943
9	5,500	898	1,298	1,527	1,687	1,829	1,957
10	5,550	904	1,307	1,538	1,699	1,842	1,971
11	5,600	911	1,316	1,549	1,711	1,855	1,985
12	5,650	917	1,326	1,560	1,723	1,868	1,999
13	5,700	923	1,335	1,571	1,735	1,881	2,013
14	5,750	930	1,344	1,582	1,748	1,894	2,027
15	5,800	936	1,353	1,592	1,760	1,907	2,041
16	5,850	943	1,363	1,603	1,772	1,921	2,055
17	5,900	949	1,372	1,614	1,784	1,934	2,069
18	5,950	955	1,381	1,625	1,796	1,947	2,083
19	6,000	962	1,390	1,636	1,808	1,960	2,097
20	6,050	968	1,400	1,647	1,820	1,973	2,111
21	6,100	975	1,409	1,658	1,832	1,986	2,125
22	6,150	981	1,418	1,669	1,844	1,999	2,139
23	6,200	987	1,427	1,680	1,856	2,012	2,153
24	6,250	994	1,437	1,691	1,869	2,026	2,167
25	6,300	1,000	1,446	1,702	1,881	2,039	2,181
26	6,350	1,007	1,455	1,713	1,893	2,052	2,195
27	6,400	1,013	1,465	1,724	1,905	2,065	2,209
28	6,450	1,019	1,474	1,735	1,917	2,078	2,223
29	6,500	1,026	1,483	1,746	1,929	2,091	2,238

1	6,550	1,032	1,492	1,757	1,941	2,104	2,252
2	6,600	1,039	1,502	1,768	1,953	2,117	2,266
3	6,650	1,045	1,511	1,779	1,965	2,130	2,280
4	6,700	1,051	1,520	1,790	1,977	2,144	2,294
5	6,750	1,058	1,529	1,801	1,990	2,157	2,308
6	6,800	1,064	1,539	1,811	2,002	2,170	2,322
7	6,850	1,071	1,548	1,822	2,014	2,183	2,336
8	6,900	1,077	1,557	1,833	2,026	2,196	2,350
9	6,950	1,083	1,567	1,844	2,038	2,209	2,364
10	7,000	1,090	1,576	1,855	2,050	2,222	2,378
11	7,050	1,096	1,585	1,866	2,062	2,235	2,392
12	7,100	1,102	1,594	1,877	2,074	2,248	2,405
13	7,150	1,108	1,602	1,886	2,084	2,259	2,417
14	7,200	1,113	1,610	1,895	2,094	2,270	2,429
15	7,250	1,118	1,617	1,904	2,104	2,281	2,441
16	7,300	1,124	1,625	1,914	2,115	2,292	2,453
17	7,350	1,129	1,633	1,923	2,125	2,303	2,465
18	7,400	1,135	1,641	1,932	2,135	2,315	2,477
19	7,450	1,140	1,649	1,942	2,146	2,326	2,489
20	7,500	1,145	1,657	1,951	2,156	2,337	2,500
21	7,550	1,151	1,664	1,960	2,166	2,348	2,512
22	7,600	1,156	1,672	1,970	2,176	2,359	2,524
23	7,650	1,161	1,680	1,979	2,187	2,370	2,536
24	7,700	1,167	1,688	1,988	2,197	2,381	2,548
25	7,750	1,172	1,696	1,997	2,207	2,393	2,560
26	7,800	1,178	1,704	2,007	2,217	2,404	2,572
27	7,850	1,183	1,712	2,016	2,228	2,415	2,584
28	7,900	1,188	1,719	2,025	2,238	2,426	2,596
29	7,950	1,194	1,727	2,035	2,248	2,437	2,608

1	8,000	1,199	1,735	2,044	2,258	2,448	2,620
2	8,050	1,205	1,743	2,053	2,269	2,459	2,632
3	8,100	1,210	1,751	2,062	2,279	2,471	2,643
4	8,150	1,215	1,759	2,072	2,289	2,482	2,655
5	8,200	1,221	1,767	2,081	2,300	2,493	2,667
6	8,250	1,226	1,774	2,090	2,310	2,504	2,679
7	8,300	1,231	1,782	2,100	2,320	2,515	2,691
8	8,350	1,237	1,790	2,109	2,330	2,526	2,703
9	8,400	1,242	1,798	2,118	2,341	2,537	2,715
10	8,450	1,248	1,806	2,128	2,351	2,548	2,727
11	8,500	1,253	1,814	2,137	2,361	2,560	2,739
12	8,550	1,258	1,821	2,146	2,371	2,571	2,751
13	8,600	1,264	1,829	2,155	2,382	2,582	2,763
14	8,650	1,269	2,837	2,165	2,392	2,593	2,775
15	8,700	1,275	1,845	2,174	2,402	2,604	2,786
16	8,750	1,280	1,853	2,183	2,413	2,615	2,798
17	8,800	1,285	1,861	2,193	2,423	2,626	2,810
18	8,850	1,291	1,869	2,202	2,433	2,638	2,822
19	8,900	1,296	1,876	2,211	2,443	2,649	2,834
20	8,950	1,301	1,884	2,221	2,454	2,660	2,846
21	9,000	1,307	1,892	2,230	2,464	2,671	2,858
22	9,050	1,312	1,900	2,239	2,474	2,682	2,870
23	9,100	1,318	1,908	2,248	2,484	2,693	2,882
24	9,150	1,323	1,916	2,258	2,495	2,704	2,894
25	9,200	1,328	1,924	2,267	2,505	2,715	2,906
26	9,250	1,334	1,931	2,276	2,515	2,727	2,918
27	9,300	1,339	1,939	2,286	2,526	2,738	2,929
28	9,350	1,345	1,947	2,295	2,536	2,749	2,941
29	9,400	1,350	1,955	2,304	2,546	2,760	2,953

1	9,450	1,355	1,963	2,313	2,556	2,771	2,965
2	9,500	1,361	1,971	2,323	2,567	2,782	2,977
3	9,550	1,366	1,978	2,332	2,577	2,793	2,989
4	9,600	1,371	1,986	2,341	2,587	2,805	3,001
5	9,650	1,377	1,994	2,351	2,597	2,816	3,013
6	9,700	1,382	2,002	2,360	2,608	2,827	3,025
7	9,750	1,388	2,010	2,369	2,618	2,838	3,037
8	9,800	1,393	2,018	2,379	2,628	2,849	3,049
9	9,850	1,398	2,026	2,388	2,638	2,860	3,060
10	9,900	1,404	2,033	2,397	2,649	2,871	3,072
11	9,950	1,409	2,041	2,406	2,659	2,883	3,084
12	10,000	1,415	2,049	2,416	2,669	2,894	3,096

13 ~~—The child support obligation from the schedule shall be divided proportionately between the~~  
14 ~~parents, based upon their respective net incomes. The share of the custodial parent is presumed~~  
15 ~~to be spent directly for the benefit of the child. The share of the noncustodial parent establishes~~  
16 ~~the amount of the child support order.~~

17 Monthly

18	<u>Net</u>	<u>One</u>	<u>Two</u>	<u>Three</u>	<u>Four</u>	<u>Five</u>	<u>Six</u>
19	<u>Income</u>	<u>Child</u>	<u>Children</u>	<u>Children</u>	<u>Children</u>	<u>Children</u>	<u>Children</u>
20	<u>0-800</u>	<b><u>100</u></b>	<b><u>150</u></b>	<b><u>180</u></b>	<b><u>200</u></b>	<b><u>220</u></b>	<b><u>240</u></b>
21	<u>850</u>	<b><u>125</u></b>	<b><u>175</u></b>	<b><u>205</u></b>	<b><u>225</u></b>	<b><u>245</u></b>	<b><u>265</u></b>
22	<u>900</u>	<b><u>150</u></b>	<b><u>200</u></b>	<b><u>230</u></b>	<b><u>250</u></b>	<b><u>270</u></b>	<b><u>290</u></b>
23	<u>950</u>	<b><u>175</u></b>	<b><u>225</u></b>	<b><u>255</u></b>	<b><u>275</u></b>	<b><u>295</u></b>	<b><u>315</u></b>
24	<u>1,000</u>	<b><u>200</u></b>	<b><u>250</u></b>	<b><u>280</u></b>	<b><u>300</u></b>	<b><u>320</u></b>	<b><u>340</u></b>
25	<u>1,050</u>	<b><u>225</u></b>	<b><u>275</u></b>	<b><u>305</u></b>	<b><u>325</u></b>	<b><u>345</u></b>	<b><u>365</u></b>
26	<u>1,100</u>	<b><u>250</u></b>	<b><u>300</u></b>	<b><u>330</u></b>	<b><u>350</u></b>	<b><u>370</u></b>	<b><u>390</u></b>
27	<u>1,150</u>	<b><u>275</u></b>	<b><u>325</u></b>	<b><u>355</u></b>	<b><u>375</u></b>	<b><u>395</u></b>	<b><u>415</u></b>

1	<u>1,200</u>	<u>291</u>	<u>350</u>	<u>380</u>	<u>400</u>	<u>420</u>	<u>440</u>
2	<u>1,250</u>	<u>302</u>	<u>375</u>	<u>405</u>	<u>425</u>	<u>445</u>	<u>465</u>
3	<u>1,300</u>	<u>313</u>	<u>400</u>	<u>430</u>	<u>450</u>	<u>470</u>	<u>490</u>
4	<u>1,350</u>	<u>324</u>	<u>425</u>	<u>455</u>	<u>475</u>	<u>495</u>	<u>515</u>
5	<u>1,400</u>	<u>336</u>	<u>450</u>	<u>480</u>	<u>500</u>	<u>520</u>	<u>540</u>
6	<u>1,450</u>	<u>347</u>	<u>475</u>	<u>505</u>	<u>525</u>	<u>545</u>	<u>565</u>
7	<u>1,500</u>	<u>358</u>	<u>500</u>	<u>530</u>	<u>550</u>	<u>570</u>	<u>590</u>
8	<u>1,550</u>	<u>369</u>	<u>525</u>	<u>555</u>	<u>575</u>	<u>595</u>	<u>615</u>
9	<u>1,600</u>	<u>380</u>	<u>550</u>	<u>580</u>	<u>600</u>	<u>620</u>	<u>640</u>
10	<u>1,650</u>	<u>391</u>	<u>566</u>	<u>605</u>	<u>625</u>	<u>645</u>	<u>665</u>
11	<u>1,700</u>	<u>402</u>	<u>582</u>	<u>630</u>	<u>650</u>	<u>670</u>	<u>690</u>
12	<u>1,750</u>	<u>413</u>	<u>598</u>	<u>655</u>	<u>675</u>	<u>695</u>	<u>715</u>
13	<u>1,800</u>	<u>424</u>	<u>615</u>	<u>680</u>	<u>700</u>	<u>720</u>	<u>740</u>
14	<u>1,850</u>	<u>436</u>	<u>631</u>	<u>705</u>	<u>725</u>	<u>745</u>	<u>765</u>
15	<u>1,900</u>	<u>447</u>	<u>647</u>	<u>730</u>	<u>750</u>	<u>770</u>	<u>790</u>
16	<u>1,950</u>	<u>458</u>	<u>663</u>	<u>755</u>	<u>775</u>	<u>795</u>	<u>815</u>
17	<u>2,000</u>	<u>469</u>	<u>679</u>	<u>780</u>	<u>800</u>	<u>820</u>	<u>840</u>
18	<u>2,050</u>	<u>480</u>	<u>695</u>	<u>805</u>	<u>825</u>	<u>845</u>	<u>865</u>
19	<u>2,100</u>	<u>491</u>	<u>710</u>	<u>830</u>	<u>850</u>	<u>870</u>	<u>890</u>
20	<u>2,150</u>	<u>499</u>	<u>722</u>	<u>849</u>	<u>875</u>	<u>895</u>	<u>915</u>
21	<u>2,200</u>	<u>508</u>	<u>734</u>	<u>864</u>	<u>900</u>	<u>920</u>	<u>940</u>
22	<u>2,250</u>	<u>516</u>	<u>747</u>	<u>879</u>	<u>925</u>	<u>945</u>	<u>965</u>
23	<u>2,300</u>	<u>524</u>	<u>759</u>	<u>893</u>	<u>950</u>	<u>970</u>	<u>990</u>
24	<u>2,350</u>	<u>533</u>	<u>771</u>	<u>908</u>	<u>975</u>	<u>995</u>	<u>1,015</u>
25	<u>2,400</u>	<u>541</u>	<u>784</u>	<u>923</u>	<u>1,000</u>	<u>1,020</u>	<u>1,040</u>
26	<u>2,450</u>	<u>550</u>	<u>796</u>	<u>937</u>	<u>1,025</u>	<u>1,045</u>	<u>1,065</u>
27	<u>2,500</u>	<u>558</u>	<u>808</u>	<u>952</u>	<u>1,050</u>	<u>1,070</u>	<u>1,090</u>
28	<u>2,550</u>	<u>566</u>	<u>820</u>	<u>966</u>	<u>1,068</u>	<u>1,095</u>	<u>1,115</u>
29	<u>2,600</u>	<u>571</u>	<u>827</u>	<u>973</u>	<u>1,075</u>	<u>1,120</u>	<u>1,140</u>

1	<u>2,650</u>	<u>576</u>	<u>833</u>	<u>980</u>	<u>1,083</u>	<b><u>1,145</u></b>	<b><u>1,165</u></b>
2	<u>2,700</u>	<u>580</u>	<u>840</u>	<u>988</u>	<u>1,091</u>	<b><u>1,170</u></b>	<b><u>1,190</u></b>
3	<u>2,750</u>	<u>585</u>	<u>846</u>	<u>995</u>	<u>1,099</u>	<u>1,191</u>	<b><u>1,215</u></b>
4	<u>2,800</u>	<u>590</u>	<u>852</u>	<u>1,002</u>	<u>1,107</u>	<u>1,200</u>	<b><u>1,240</u></b>
5	<u>2,850</u>	<u>594</u>	<u>859</u>	<u>1,009</u>	<u>1,115</u>	<u>1,209</u>	<b><u>1,265</u></b>
6	<u>2,900</u>	<u>599</u>	<u>865</u>	<u>1,016</u>	<u>1,123</u>	<u>1,217</u>	<b><u>1,290</u></b>
7	<u>2,950</u>	<u>604</u>	<u>872</u>	<u>1,023</u>	<u>1,131</u>	<u>1,226</u>	<u>1,312</u>
8	<u>3,000</u>	<u>609</u>	<u>878</u>	<u>1,030</u>	<u>1,139</u>	<u>1,234</u>	<u>1,321</u>
9	<u>3,050</u>	<u>615</u>	<u>888</u>	<u>1,041</u>	<u>1,150</u>	<u>1,247</u>	<u>1,334</u>
10	<u>3,100</u>	<u>622</u>	<u>898</u>	<u>1,053</u>	<u>1,163</u>	<u>1,261</u>	<u>1,349</u>
11	<u>3,150</u>	<u>630</u>	<u>908</u>	<u>1,064</u>	<u>1,176</u>	<u>1,275</u>	<u>1,364</u>
12	<u>3,200</u>	<u>637</u>	<u>918</u>	<u>1,076</u>	<u>1,189</u>	<u>1,288</u>	<u>1,379</u>
13	<u>3,250</u>	<u>644</u>	<u>928</u>	<u>1,087</u>	<u>1,201</u>	<u>1,302</u>	<u>1,393</u>
14	<u>3,300</u>	<u>651</u>	<u>938</u>	<u>1,099</u>	<u>1,214</u>	<u>1,316</u>	<u>1,408</u>
15	<u>3,350</u>	<u>658</u>	<u>948</u>	<u>1,110</u>	<u>1,227</u>	<u>1,330</u>	<u>1,423</u>
16	<u>3,400</u>	<u>665</u>	<u>958</u>	<u>1,122</u>	<u>1,239</u>	<u>1,343</u>	<u>1,438</u>
17	<u>3,450</u>	<u>673</u>	<u>968</u>	<u>1,133</u>	<u>1,252</u>	<u>1,357</u>	<u>1,452</u>
18	<u>3,500</u>	<u>679</u>	<u>977</u>	<u>1,144</u>	<u>1,265</u>	<u>1,371</u>	<u>1,467</u>
19	<u>3,550</u>	<u>686</u>	<u>987</u>	<u>1,155</u>	<u>1,277</u>	<u>1,384</u>	<u>1,481</u>
20	<u>3,600</u>	<u>692</u>	<u>996</u>	<u>1,166</u>	<u>1,289</u>	<u>1,397</u>	<u>1,495</u>
21	<u>3,650</u>	<u>698</u>	<u>1,005</u>	<u>1,177</u>	<u>1,301</u>	<u>1,410</u>	<u>1,509</u>
22	<u>3,700</u>	<u>705</u>	<u>1,014</u>	<u>1,188</u>	<u>1,313</u>	<u>1,423</u>	<u>1,523</u>
23	<u>3,750</u>	<u>711</u>	<u>1,024</u>	<u>1,199</u>	<u>1,325</u>	<u>1,437</u>	<u>1,537</u>
24	<u>3,800</u>	<u>717</u>	<u>1,033</u>	<u>1,210</u>	<u>1,337</u>	<u>1,450</u>	<u>1,551</u>
25	<u>3,850</u>	<u>723</u>	<u>1,042</u>	<u>1,221</u>	<u>1,350</u>	<u>1,463</u>	<u>1,565</u>
26	<u>3,900</u>	<u>730</u>	<u>1,051</u>	<u>1,232</u>	<u>1,362</u>	<u>1,476</u>	<u>1,579</u>
27	<u>3,950</u>	<u>737</u>	<u>1,061</u>	<u>1,244</u>	<u>1,374</u>	<u>1,490</u>	<u>1,594</u>
28	<u>4,000</u>	<u>744</u>	<u>1,072</u>	<u>1,256</u>	<u>1,388</u>	<u>1,505</u>	<u>1,610</u>
29	<u>4,050</u>	<u>752</u>	<u>1,082</u>	<u>1,268</u>	<u>1,401</u>	<u>1,519</u>	<u>1,626</u>



1	<u>4,100</u>	<u>759</u>	<u>1,093</u>	<u>1,281</u>	<u>1,415</u>	<u>1,534</u>	<u>1,641</u>
2	<u>4,150</u>	<u>767</u>	<u>1,104</u>	<u>1,293</u>	<u>1,429</u>	<u>1,549</u>	<u>1,657</u>
3	<u>4,200</u>	<u>774</u>	<u>1,114</u>	<u>1,305</u>	<u>1,442</u>	<u>1,563</u>	<u>1,673</u>
4	<u>4,250</u>	<u>782</u>	<u>1,125</u>	<u>1,317</u>	<u>1,456</u>	<u>1,578</u>	<u>1,688</u>
5	<u>4,300</u>	<u>789</u>	<u>1,136</u>	<u>1,330</u>	<u>1,469</u>	<u>1,593</u>	<u>1,704</u>
6	<u>4,350</u>	<u>797</u>	<u>1,146</u>	<u>1,342</u>	<u>1,483</u>	<u>1,607</u>	<u>1,720</u>
7	<u>4,400</u>	<u>804</u>	<u>1,157</u>	<u>1,354</u>	<u>1,496</u>	<u>1,622</u>	<u>1,735</u>
8	<u>4,450</u>	<u>811</u>	<u>1,166</u>	<u>1,365</u>	<u>1,508</u>	<u>1,635</u>	<u>1,749</u>
9	<u>4,500</u>	<u>817</u>	<u>1,176</u>	<u>1,376</u>	<u>1,520</u>	<u>1,648</u>	<u>1,763</u>
10	<u>4,550</u>	<u>824</u>	<u>1,185</u>	<u>1,387</u>	<u>1,533</u>	<u>1,661</u>	<u>1,778</u>
11	<u>4,600</u>	<u>830</u>	<u>1,194</u>	<u>1,398</u>	<u>1,545</u>	<u>1,674</u>	<u>1,792</u>
12	<u>4,650</u>	<u>837</u>	<u>1,204</u>	<u>1,409</u>	<u>1,557</u>	<u>1,688</u>	<u>1,806</u>
13	<u>4,700</u>	<u>843</u>	<u>1,213</u>	<u>1,420</u>	<u>1,569</u>	<u>1,701</u>	<u>1,820</u>
14	<u>4,750</u>	<u>850</u>	<u>1,222</u>	<u>1,431</u>	<u>1,581</u>	<u>1,714</u>	<u>1,834</u>
15	<u>4,800</u>	<u>856</u>	<u>1,232</u>	<u>1,442</u>	<u>1,593</u>	<u>1,727</u>	<u>1,848</u>
16	<u>4,850</u>	<u>863</u>	<u>1,241</u>	<u>1,453</u>	<u>1,606</u>	<u>1,740</u>	<u>1,862</u>
17	<u>4,900</u>	<u>869</u>	<u>1,251</u>	<u>1,464</u>	<u>1,618</u>	<u>1,754</u>	<u>1,876</u>
18	<u>4,950</u>	<u>876</u>	<u>1,260</u>	<u>1,475</u>	<u>1,630</u>	<u>1,767</u>	<u>1,891</u>
19	<u>5,000</u>	<u>882</u>	<u>1,269</u>	<u>1,486</u>	<u>1,642</u>	<u>1,780</u>	<u>1,905</u>
20	<u>5,050</u>	<u>889</u>	<u>1,279</u>	<u>1,497</u>	<u>1,654</u>	<u>1,793</u>	<u>1,919</u>
21	<u>5,100</u>	<u>895</u>	<u>1,288</u>	<u>1,508</u>	<u>1,666</u>	<u>1,806</u>	<u>1,932</u>
22	<u>5,150</u>	<u>900</u>	<u>1,295</u>	<u>1,517</u>	<u>1,676</u>	<u>1,817</u>	<u>1,944</u>
23	<u>5,200</u>	<u>905</u>	<u>1,303</u>	<u>1,526</u>	<u>1,686</u>	<u>1,828</u>	<u>1,956</u>
24	<u>5,250</u>	<u>910</u>	<u>1,310</u>	<u>1,535</u>	<u>1,696</u>	<u>1,839</u>	<u>1,968</u>
25	<u>5,300</u>	<u>915</u>	<u>1,318</u>	<u>1,544</u>	<u>1,706</u>	<u>1,850</u>	<u>1,979</u>
26	<u>5,350</u>	<u>920</u>	<u>1,325</u>	<u>1,553</u>	<u>1,717</u>	<u>1,861</u>	<u>1,991</u>
27	<u>5,400</u>	<u>925</u>	<u>1,332</u>	<u>1,563</u>	<u>1,727</u>	<u>1,872</u>	<u>2,003</u>
28	<u>5,450</u>	<u>930</u>	<u>1,340</u>	<u>1,572</u>	<u>1,737</u>	<u>1,883</u>	<u>2,014</u>
29	<u>5,500</u>	<u>934</u>	<u>1,347</u>	<u>1,581</u>	<u>1,747</u>	<u>1,894</u>	<u>2,026</u>

1	<u>5,550</u>	<u>939</u>	<u>1,355</u>	<u>1,590</u>	<u>1,757</u>	<u>1,905</u>	<u>2,038</u>
2	<u>5,600</u>	<u>944</u>	<u>1,362</u>	<u>1,599</u>	<u>1,767</u>	<u>1,916</u>	<u>2,050</u>
3	<u>5,650</u>	<u>949</u>	<u>1,370</u>	<u>1,608</u>	<u>1,777</u>	<u>1,927</u>	<u>2,061</u>
4	<u>5,700</u>	<u>954</u>	<u>1,377</u>	<u>1,618</u>	<u>1,787</u>	<u>1,938</u>	<u>2,073</u>
5	<u>5,750</u>	<u>959</u>	<u>1,384</u>	<u>1,627</u>	<u>1,797</u>	<u>1,948</u>	<u>2,085</u>
6	<u>5,800</u>	<u>964</u>	<u>1,392</u>	<u>1,636</u>	<u>1,808</u>	<u>1,959</u>	<u>2,097</u>
7	<u>5,850</u>	<u>969</u>	<u>1,399</u>	<u>1,645</u>	<u>1,818</u>	<u>1,970</u>	<u>2,108</u>
8	<u>5,900</u>	<u>974</u>	<u>1,407</u>	<u>1,654</u>	<u>1,828</u>	<u>1,981</u>	<u>2,120</u>
9	<u>5,950</u>	<u>979</u>	<u>1,414</u>	<u>1,663</u>	<u>1,838</u>	<u>1,992</u>	<u>2,132</u>
10	<u>6,000</u>	<u>984</u>	<u>1,422</u>	<u>1,672</u>	<u>1,848</u>	<u>2,003</u>	<u>2,143</u>
11	<u>6,050</u>	<u>990</u>	<u>1,430</u>	<u>1,683</u>	<u>1,860</u>	<u>2,016</u>	<u>2,157</u>
12	<u>6,100</u>	<u>996</u>	<u>1,440</u>	<u>1,694</u>	<u>1,872</u>	<u>2,029</u>	<u>2,171</u>
13	<u>6,150</u>	<u>1,002</u>	<u>1,449</u>	<u>1,705</u>	<u>1,884</u>	<u>2,042</u>	<u>2,185</u>
14	<u>6,200</u>	<u>1,009</u>	<u>1,458</u>	<u>1,716</u>	<u>1,896</u>	<u>2,055</u>	<u>2,199</u>
15	<u>6,250</u>	<u>1,015</u>	<u>1,468</u>	<u>1,727</u>	<u>1,908</u>	<u>2,068</u>	<u>2,213</u>
16	<u>6,300</u>	<u>1,022</u>	<u>1,477</u>	<u>1,738</u>	<u>1,920</u>	<u>2,081</u>	<u>2,227</u>
17	<u>6,350</u>	<u>1,028</u>	<u>1,486</u>	<u>1,749</u>	<u>1,932</u>	<u>2,094</u>	<u>2,241</u>
18	<u>6,400</u>	<u>1,034</u>	<u>1,495</u>	<u>1,760</u>	<u>1,944</u>	<u>2,108</u>	<u>2,255</u>
19	<u>6,450</u>	<u>1,041</u>	<u>1,505</u>	<u>1,770</u>	<u>1,956</u>	<u>2,121</u>	<u>2,269</u>
20	<u>6,500</u>	<u>1,047</u>	<u>1,514</u>	<u>1,781</u>	<u>1,968</u>	<u>2,134</u>	<u>2,283</u>
21	<u>6,550</u>	<u>1,054</u>	<u>1,523</u>	<u>1,792</u>	<u>1,981</u>	<u>2,147</u>	<u>2,297</u>
22	<u>6,600</u>	<u>1,060</u>	<u>1,532</u>	<u>1,803</u>	<u>1,993</u>	<u>2,160</u>	<u>2,311</u>
23	<u>6,650</u>	<u>1,066</u>	<u>1,542</u>	<u>1,814</u>	<u>2,005</u>	<u>2,173</u>	<u>2,325</u>
24	<u>6,700</u>	<u>1,073</u>	<u>1,551</u>	<u>1,825</u>	<u>2,017</u>	<u>2,186</u>	<u>2,339</u>
25	<u>6,750</u>	<u>1,079</u>	<u>1,560</u>	<u>1,836</u>	<u>2,029</u>	<u>2,199</u>	<u>2,353</u>
26	<u>6,800</u>	<u>1,086</u>	<u>1,569</u>	<u>1,847</u>	<u>2,041</u>	<u>2,212</u>	<u>2,367</u>
27	<u>6,850</u>	<u>1,092</u>	<u>1,579</u>	<u>1,858</u>	<u>2,053</u>	<u>2,226</u>	<u>2,381</u>
28	<u>6,900</u>	<u>1,098</u>	<u>1,588</u>	<u>1,869</u>	<u>2,065</u>	<u>2,239</u>	<u>2,395</u>
29	<u>6,950</u>	<u>1,105</u>	<u>1,597</u>	<u>1,880</u>	<u>2,077</u>	<u>2,252</u>	<u>2,410</u>

1	<u>7,000</u>	<u>1,111</u>	<u>1,607</u>	<u>1,891</u>	<u>2,089</u>	<u>2,265</u>	<u>2,424</u>
2	<u>7,050</u>	<u>1,118</u>	<u>1,616</u>	<u>1,902</u>	<u>2,102</u>	<u>2,278</u>	<u>2,438</u>
3	<u>7,100</u>	<u>1,124</u>	<u>1,625</u>	<u>1,913</u>	<u>2,114</u>	<u>2,291</u>	<u>2,452</u>
4	<u>7,150</u>	<u>1,130</u>	<u>1,634</u>	<u>1,924</u>	<u>2,126</u>	<u>2,304</u>	<u>2,466</u>
5	<u>7,200</u>	<u>1,137</u>	<u>1,644</u>	<u>1,935</u>	<u>2,138</u>	<u>2,317</u>	<u>2,480</u>
6	<u>7,250</u>	<u>1,143</u>	<u>1,653</u>	<u>1,946</u>	<u>2,150</u>	<u>2,331</u>	<u>2,494</u>
7	<u>7,300</u>	<u>1,150</u>	<u>1,662</u>	<u>1,957</u>	<u>2,162</u>	<u>2,344</u>	<u>2,508</u>
8	<u>7,350</u>	<u>1,156</u>	<u>1,671</u>	<u>1,968</u>	<u>2,174</u>	<u>2,357</u>	<u>2,522</u>
9	<u>7,400</u>	<u>1,162</u>	<u>1,681</u>	<u>1,979</u>	<u>2,186</u>	<u>2,370</u>	<u>2,536</u>
10	<u>7,450</u>	<u>1,169</u>	<u>1,690</u>	<u>1,989</u>	<u>2,198</u>	<u>2,383</u>	<u>2,550</u>
11	<u>7,500</u>	<u>1,175</u>	<u>1,699</u>	<u>2,000</u>	<u>2,210</u>	<u>2,396</u>	<u>2,564</u>
12	<u>7,550</u>	<u>1,182</u>	<u>1,709</u>	<u>2,011</u>	<u>2,223</u>	<u>2,409</u>	<u>2,578</u>
13	<u>7,600</u>	<u>1,188</u>	<u>1,718</u>	<u>2,022</u>	<u>2,235</u>	<u>2,422</u>	<u>2,592</u>
14	<u>7,650</u>	<u>1,194</u>	<u>1,727</u>	<u>2,033</u>	<u>2,247</u>	<u>2,435</u>	<u>2,606</u>
15	<u>7,700</u>	<u>1,201</u>	<u>1,736</u>	<u>2,044</u>	<u>2,259</u>	<u>2,449</u>	<u>2,620</u>
16	<u>7,750</u>	<u>1,207</u>	<u>1,746</u>	<u>2,055</u>	<u>2,271</u>	<u>2,462</u>	<u>2,634</u>
17	<u>7,800</u>	<u>1,214</u>	<u>1,755</u>	<u>2,066</u>	<u>2,283</u>	<u>2,475</u>	<u>2,648</u>
18	<u>7,850</u>	<u>1,220</u>	<u>1,764</u>	<u>2,077</u>	<u>2,295</u>	<u>2,488</u>	<u>2,662</u>
19	<u>7,900</u>	<u>1,226</u>	<u>1,772</u>	<u>2,087</u>	<u>2,306</u>	<u>2,500</u>	<u>2,675</u>
20	<u>7,950</u>	<u>1,231</u>	<u>1,780</u>	<u>2,096</u>	<u>2,316</u>	<u>2,511</u>	<u>2,687</u>
21	<u>8,000</u>	<u>1,237</u>	<u>1,788</u>	<u>2,105</u>	<u>2,327</u>	<u>2,522</u>	<u>2,699</u>
22	<u>8,050</u>	<u>1,242</u>	<u>1,796</u>	<u>2,115</u>	<u>2,337</u>	<u>2,533</u>	<u>2,710</u>
23	<u>8,100</u>	<u>1,247</u>	<u>1,804</u>	<u>2,124</u>	<u>2,347</u>	<u>2,544</u>	<u>2,722</u>
24	<u>8,150</u>	<u>1,253</u>	<u>1,812</u>	<u>2,133</u>	<u>2,357</u>	<u>2,555</u>	<u>2,734</u>
25	<u>8,200</u>	<u>1,258</u>	<u>1,820</u>	<u>2,143</u>	<u>2,368</u>	<u>2,567</u>	<u>2,746</u>
26	<u>8,250</u>	<u>1,263</u>	<u>1,827</u>	<u>2,152</u>	<u>2,378</u>	<u>2,578</u>	<u>2,758</u>
27	<u>8,300</u>	<u>1,269</u>	<u>1,835</u>	<u>2,161</u>	<u>2,388</u>	<u>2,589</u>	<u>2,770</u>
28	<u>8,350</u>	<u>1,274</u>	<u>1,843</u>	<u>2,171</u>	<u>2,398</u>	<u>2,600</u>	<u>2,782</u>
29	<u>8,400</u>	<u>1,280</u>	<u>1,851</u>	<u>2,180</u>	<u>2,409</u>	<u>2,611</u>	<u>2,794</u>

1	<u>8,450</u>	<u>1,285</u>	<u>1,859</u>	<u>2,189</u>	<u>2,419</u>	<u>2,622</u>	<u>2,806</u>
2	<u>8,500</u>	<u>1,290</u>	<u>1,867</u>	<u>2,198</u>	<u>2,429</u>	<u>2,633</u>	<u>2,818</u>
3	<u>8,550</u>	<u>1,296</u>	<u>1,874</u>	<u>2,208</u>	<u>2,440</u>	<u>2,644</u>	<u>2,830</u>
4	<u>8,600</u>	<u>1,301</u>	<u>1,882</u>	<u>2,217</u>	<u>2,450</u>	<u>2,656</u>	<u>2,842</u>
5	<u>8,650</u>	<u>1,307</u>	<u>1,890</u>	<u>2,226</u>	<u>2,460</u>	<u>2,667</u>	<u>2,853</u>
6	<u>8,700</u>	<u>1,312</u>	<u>1,898</u>	<u>2,236</u>	<u>2,470</u>	<u>2,678</u>	<u>2,865</u>
7	<u>8,750</u>	<u>1,317</u>	<u>1,906</u>	<u>2,245</u>	<u>2,481</u>	<u>2,689</u>	<u>2,877</u>
8	<u>8,800</u>	<u>1,323</u>	<u>1,914</u>	<u>2,254</u>	<u>2,491</u>	<u>2,700</u>	<u>2,889</u>
9	<u>8,850</u>	<u>1,328</u>	<u>1,922</u>	<u>2,263</u>	<u>2,501</u>	<u>2,711</u>	<u>2,901</u>
10	<u>8,900</u>	<u>1,333</u>	<u>1,929</u>	<u>2,273</u>	<u>2,511</u>	<u>2,722</u>	<u>2,913</u>
11	<u>8,950</u>	<u>1,339</u>	<u>1,937</u>	<u>2,282</u>	<u>2,522</u>	<u>2,734</u>	<u>2,925</u>
12	<u>9,000</u>	<u>1,344</u>	<u>1,945</u>	<u>2,291</u>	<u>2,532</u>	<u>2,745</u>	<u>2,937</u>
13	<u>9,050</u>	<u>1,350</u>	<u>1,953</u>	<u>2,301</u>	<u>2,542</u>	<u>2,756</u>	<u>2,949</u>
14	<u>9,100</u>	<u>1,355</u>	<u>1,961</u>	<u>2,310</u>	<u>2,552</u>	<u>2,767</u>	<u>2,961</u>
15	<u>9,150</u>	<u>1,360</u>	<u>1,969</u>	<u>2,319</u>	<u>2,563</u>	<u>2,778</u>	<u>2,973</u>
16	<u>9,200</u>	<u>1,366</u>	<u>1,977</u>	<u>2,329</u>	<u>2,573</u>	<u>2,789</u>	<u>2,984</u>
17	<u>9,250</u>	<u>1,371</u>	<u>1,984</u>	<u>2,338</u>	<u>2,583</u>	<u>2,800</u>	<u>2,996</u>
18	<u>9,300</u>	<u>1,377</u>	<u>1,992</u>	<u>2,347</u>	<u>2,594</u>	<u>2,812</u>	<u>3,008</u>
19	<u>9,350</u>	<u>1,382</u>	<u>2,000</u>	<u>2,356</u>	<u>2,604</u>	<u>2,823</u>	<u>3,020</u>
20	<u>9,400</u>	<u>1,387</u>	<u>2,008</u>	<u>2,366</u>	<u>2,614</u>	<u>2,834</u>	<u>3,032</u>
21	<u>9,450</u>	<u>1,393</u>	<u>2,016</u>	<u>2,375</u>	<u>2,624</u>	<u>2,845</u>	<u>3,044</u>
22	<u>9,500</u>	<u>1,398</u>	<u>2,024</u>	<u>2,384</u>	<u>2,635</u>	<u>2,856</u>	<u>3,056</u>
23	<u>9,550</u>	<u>1,403</u>	<u>2,031</u>	<u>2,394</u>	<u>2,645</u>	<u>2,867</u>	<u>3,068</u>
24	<u>9,600</u>	<u>1,409</u>	<u>2,039</u>	<u>2,403</u>	<u>2,655</u>	<u>2,878</u>	<u>3,080</u>
25	<u>9,650</u>	<u>1,414</u>	<u>2,047</u>	<u>2,412</u>	<u>2,665</u>	<u>2,889</u>	<u>3,092</u>
26	<u>9,700</u>	<u>1,420</u>	<u>2,055</u>	<u>2,422</u>	<u>2,676</u>	<u>2,901</u>	<u>3,104</u>
27	<u>9,750</u>	<u>1,425</u>	<u>2,063</u>	<u>2,431</u>	<u>2,686</u>	<u>2,912</u>	<u>3,116</u>
28	<u>9,800</u>	<u>1,430</u>	<u>2,071</u>	<u>2,440</u>	<u>2,696</u>	<u>2,923</u>	<u>3,127</u>
29	<u>9,850</u>	<u>1,436</u>	<u>2,079</u>	<u>2,449</u>	<u>2,707</u>	<u>2,934</u>	<u>3,139</u>

1	<u>9,900</u>	<u>1,441</u>	<u>2,086</u>	<u>2,459</u>	<u>2,717</u>	<u>2,945</u>	<u>3,151</u>
2	<u>9,950</u>	<u>1,447</u>	<u>2,094</u>	<u>2,468</u>	<u>2,727</u>	<u>2,956</u>	<u>3,163</u>
3	<u>10,000</u>	<u>1,452</u>	<u>2,102</u>	<u>2,477</u>	<u>2,737</u>	<u>2,967</u>	<u>3,175</u>

4 The share of the custodial parent is presumed to be spent directly for the benefit of the child.

5 Section 2. That § 25-7-6.14 be amended to read as follows:

6 25-7-6.14. ~~Unless~~ As used in this section, basic visitation means a parenting plan whereby  
7 one parent has physical custody and the other parent has visitation with the child of the parties.

8 In a basic visitation situation, unless the parties otherwise agree and the agreement is approved  
9 by the court, the court may, if deemed appropriate under the circumstances, order an abatement  
10 of not less than thirty- eight percent nor more than sixty-six percent of the child support if:

- 11 (1) A child spends ten or more days in a month with the obligor; and
- 12 (2) The ~~number of~~ days of visitation and the abatement, ~~percentage or~~ amount are  
13 specified in the court order; ~~and~~
- 14 ~~(3) The visitation is actually exercised.~~

15 The court shall allow the abatement to the obligor in the month in which the visitation is  
16 exercised, unless otherwise ordered. The abatement shall be pro-rated to the days of visitation.  
17 It shall be presumed that the visitation is exercised. If the visitation exercised substantially  
18 deviates from the visitation ordered, either party may file a petition for modification without  
19 showing any other change in circumstances.

20 As used in this section, shared responsibility means a parenting plan whereby each parent  
21 provides a suitable home for the child of the parties, the court order allows the child to spend at  
22 least one hundred twenty days in a calendar year in each home, and the parents share the duties,  
23 responsibilities, and expenses of parenting. In a shared responsibility situation, unless the parties  
24 otherwise agree and the agreement is approved by the court, the court may, if deemed

1 appropriate under the circumstances, order a shared responsibility cross credit. The cross credit  
2 shall be calculated by multiplying the combined child support obligation using both parents'  
3 monthly net incomes by 1.5 to arrive at a shared custody child support obligation. The shared  
4 custody child support obligation shall be apportioned to each parent according to his or her net  
5 income. A child support obligation is computed for each parent by multiplying that parent's  
6 portion of the shared custody child support obligation by the percentage of time the child spends  
7 with the other parent. The respective child support obligations are offset, with the parent owing  
8 more child support paying the difference between the two amounts. It shall be presumed that the  
9 shared responsibility parenting plan is exercised. If the parenting plan exercised substantially  
10 deviates from the parenting plan ordered, either party may file a petition for modification without  
11 showing any other change in circumstances.

12 The court shall consider each case individually before granting either the basic visitation or  
13 shared responsibility adjustment to insure that the adjustment does not place an undue hardship  
14 on the custodial parent or have a substantial negative effect on the child's standard of living.

15 Section 3. That § 25-7-6.7 be amended to read as follows:

16 25-7-6.7. Deductions from monthly gross income shall be allowed as follows:

- 17 (1) Income taxes withheld figured on the basis of two dependent exemptions for a single  
18 taxpayer paid monthly rather than actual amount withheld;
- 19 (2) Estimated income taxes payable, prorated monthly;
- 20 (3) FICA taxes withheld from wages or salary;
- 21 (4) Retirement fund amounts withheld or paid directly to an IRS qualified retirement plan,  
22 in a reasonable amount, ~~but, in all cases, limited to the amounts deductible for federal~~  
23 ~~income tax purposes;~~
- 24 (5) Actual business expenses of an employee, incurred for the benefit of his employer, not

1 reimbursed;

2 (6) Payments made on other support and maintenance orders.

3 Section 4. That chapter 25-7 be amended by adding thereto a NEW SECTION to read as  
4 follows:

5 If, at any time, unpaid child support arrearages exist, the court may order the support obligor  
6 to pay towards the arrearages such sums as are ordered by the court, in addition to any other  
7 remedies of the support obligee.

8 Section 5. That § 25-7-6.3 be amended to read as follows:

9 25-7-6.3. The monthly net income of each parent shall be determined by ~~his~~ the parent's gross  
10 income less allowable deductions, as set forth herein. The monthly gross income of each parent  
11 includes amounts received from the following sources:

12 (1) Compensation paid to an employee for personal services, whether salary, wages,  
13 commissions, bonus, or otherwise designated;

14 (2) Self-employment income including gain, profit, or loss from a business, farm, or  
15 profession;

16 (3) Periodic payments from pensions or retirement programs, including social security or  
17 veteran's benefits, disability payments or insurance contracts;

18 (4) Interest, dividends, rentals, royalties, or other gain derived from investment of capital  
19 assets;

20 (5) Gain or loss from the sale, trade, or conversion of capital assets;

21 (6) Unemployment insurance benefits; and

22 (7) Worker's compensation benefits;

23 (8) Benefits in lieu of compensation including military pay allowances.

24 If the income of the parents is derived from seasonal employment, or received in payments

1 other than regular, recurring payments, such income shall be annualized to determine a monthly  
2 average income.

3 Section 6. That § 25-5-18.1 be amended to read as follows:

4 25-5-18.1. The parents of any child are under a legal duty to support their child in  
5 accordance with the provisions of § 25-7-6.1, until the child attains the age of eighteen, or until  
6 the child attains the age of nineteen if ~~he~~ the child is a full-time student in a secondary school.  
7 If it is determined by the court that the child support obligation survives the death of the parent,  
8 the amount due may be modified, revoked, or commuted to a lump sum payment by the court,  
9 taking into consideration all factors deemed relevant, including the financial resources of the  
10 child and the other parent and the needs of the decedent's family.

11 Section 7. That § 25-7-6.10 be amended to read as follows:

12 25-7-6.10. Deviation from the schedule in § 25-7-6.2 shall be considered if raised by either  
13 party and made only upon the entry of specific findings based upon any of the following factors:

- 14 (1) The income of a subsequent spouse or contribution of a third party to the income or  
15 expenses of that parent but only if the application of the schedule works a financial  
16 hardship on either parent;
- 17 (2) Any financial condition of either parent which would make application of the schedule  
18 inequitable;
- 19 (3) ~~Whether the federal income tax dependent deduction for such minor child is allocated~~  
20 ~~to the benefit of the support obligor or the custodial parent~~ The federal income tax  
21 consequences arising from claiming the child as a dependent;
- 22 (4) Any special needs of the child;
- 23 (5) ~~The effect of custody and visitation provisions including whether children share~~  
24 ~~substantial amounts of time with each parent;~~



1 —(6) For agreements entered into prior to July 1, 1986, if it is established by clear and  
2 convincing evidence, that debts or property were exchanged for child support and it  
3 appears equitable to continue such arrangement;

4 ~~(7)~~(6) The effect of agreements between the parents regarding extra forms of support for the  
5 direct benefit of the child;

6 ~~(8)~~(7) The obligation of either parent to provide for subsequent natural children or  
7 stepchildren. However, an existing support order may not be modified solely for this  
8 reason; or

9 ~~(9)~~(8) The voluntary act of either parent which reduces that parent's income.

10 Section 8. That § 25-7-6.13 be amended to read as follows:

11 25-7-6.13. All orders for support entered and in effect prior to July 1, ~~1997~~ 2001, may be  
12 modified in accordance with this chapter without requiring a showing of a change in  
13 circumstances from the entry of the order.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

961E0451

HOUSE COMMERCE COMMITTEE ENGROSSED NO.

**HB 1094** - 01/25/2001

Introduced by: Representatives Broderick, Brown (Jarvis), and Madsen and Senators  
Diedrich (Elmer), Diedrich (Larry), and Hutmacher

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to credit card coverages  
2 of group personal property.

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

4 Section 1. That § 58-19-1 be amended to read as follows:

5 58-19-1. The purpose of this chapter is to promote the public welfare by regulating credit  
6 life insurance, credit health insurance, ~~and credit unemployment insurance,~~ and credit property  
7 including group personal property coverages authorized through credit cards. Nothing in this  
8 chapter is intended to prohibit or discourage reasonable competition. The provisions of this  
9 chapter shall be liberally construed.

10 Section 2. That § 58-19-2 be amended to read as follows:

11 58-19-2. Terms used in this chapter mean:

12 (1) "Credit health insurance," insurance on a debtor to provide indemnity for payments  
13 becoming due on a specific loan, lease, or other credit transaction while the debtor is  
14 disabled as defined in the policy;

- 1 (2) "Credit life insurance," insurance on the life of a debtor pursuant to or in connection  
2 with a specific loan, lease, or other credit transaction;
- 3 (3) "Creditor," the lender of money or vendor or lessor of goods, services, or property,  
4 rights or privileges, for which payment is arranged through a credit transaction, or any  
5 successor to the right, title, or interest of any such lender, vendor, or lessor, and an  
6 affiliate, associate, or subsidiary of any of them or any director, officer, or employee  
7 of any of them or any other person in any way associated with any of them;
- 8 (4) "Debtor," a borrower of money or a purchaser or lessee of goods, services, property,  
9 rights, or privileges for which payment is arranged through a credit transaction;
- 10 (5) "Indebtedness," the total amount payable by a debtor to a creditor in connection with  
11 a loan, lease, or other credit transaction;
- 12 (6) "Group property insurance authorized by credit card," forms of property insurance  
13 issued on a group basis covering:
- 14 (a) Loss of or damage to personal property, other than loss of use or loss resulting  
15 from a defect in materials or workmanship, where such personal property is  
16 purchased using a credit card;
- 17 (b) Loss of, damage to or loss of use of personal property resulting from a defect  
18 in materials or workmanship, where the personal property is purchased using  
19 a credit card and is under warranty;
- 20 (c) Loss of or damage to a lease or rented motor vehicle, that is intended to be  
21 rented or leased for a period of ninety consecutive days or less, where the lease  
22 or rental fee is paid using a credit card;
- 23 (d) Loss of, or damage to or loss of use of baggage and its contents while in  
24 transit, where the cost of travel or accommodations is paid using a credit card;

1           (e) Loss of damage to or loss of use of personal property occurring in connection  
2                         with use of a leased or rented motor vehicle, which motor vehicle is intended  
3                         to be rented or leased for a period of ninety consecutive days or less, where the  
4                         lease or rental fee is paid using a credit card;

5           (f) Loss incurred in connection with the unauthorized use of a credit card; or

6           (g) Such other forms of property insurance that are authorized by the director of  
7                         the Division of Insurance by rule promulgated pursuant to chapter 1-26 and  
8                         determined to be appropriate for issuance on a group basis.

9           Section 3. That chapter 58-19 be amended by adding thereto a NEW SECTION to read as  
10 follows:

11           Any group property insurance authorized by credit card is subject to the provisions of this  
12 chapter to the extent such provisions are not inconsistent with the specific provisions of §§ 58-  
13 19-48 to 58-19-50, inclusive.

14           Section 4. That chapter 58-19 be amended by adding thereto a NEW SECTION to read as  
15 follows:

16           Group property insurance authorized by credit card shall be sold separately and shall be  
17 separately priced from any other insurance offered or sold at the same time unless it is included  
18 as part of an insurance offering by a credit card issuer. Group property insurance authorized by  
19 credit card may not be required as a condition for the issuance or renewal of a credit card.

20           Section 5. That chapter 58-19 be amended by adding thereto a NEW SECTION to read as  
21 follows:

22           All group property insurance authorized by credit card insurance policies, certificates of  
23 insurance, notices of proposed insurance, applications for insurance, endorsements and riders  
24 delivered or issued for delivery in this state and the schedules of premium rates pertaining thereto

1 shall be filed with the director.

2 Section 6. That chapter 58-19 be amended by adding thereto a NEW SECTION to read as  
3 follows:

4 Within thirty days after the filing of any group property insurance authorized by credit card  
5 insurance policy, certificate of insurance, notice of proposed insurance, application for insurance,  
6 endorsement or rider, the director shall disapprove any such form if the premium rates charged  
7 or to be charged are excessive in relation to benefits, or if such form contains provisions which  
8 are unjust, unfair, inequitable, misleading, deceptive, or encourage misrepresentation of the  
9 insurance, or are contrary to any provision of this title. If such filing is not disapproved by the  
10 director within this thirty-day period, it shall be deemed approved.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

905E0521

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

**HB 1126 - 01/31/2001**

Introduced by: Representatives Duenwald, Abdallah, Duniphan, Monroe, Sebert, and Van  
Etten and Senators Daugaard, Albers, Madden, and Vitter

1 FOR AN ACT ENTITLED, An Act to limit the application of implied consent in circumstances  
2 involving an arrest for vehicular homicide or vehicular battery.

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

4 Section 1. That § 32-23-10 be amended to read as follows:

5 32-23-10. Any person who operates any vehicle in this state is considered to have given  
6 consent to the withdrawal of blood or other bodily substance and chemical analysis of the  
7 person's blood, breath, or other bodily substance to determine the amount of alcohol in the  
8 person's blood and to determine the presence of marijuana or any controlled drug or substance.

9 The person shall be requested by the officer to submit to the withdrawal of blood or other  
10 bodily substance for chemical analysis or chemical analysis of the person's breath and shall be  
11 advised by the officer that:

12 (1) If the person refuses to submit to the withdrawal or chemical analysis, no withdrawal  
13 or chemical analysis may be required unless the person has been arrested for a third,  
14 fourth, or subsequent violation of § 32-23-1, constituting a felony offense under

1           § 32-23-4 or 32-23-4.6 or has been arrested for vehicular homicide under § 22-16-41  
2           or vehicular battery under § 22-16-42;

3       (2)   If the person refuses to submit to the withdrawal or chemical analysis, the person's  
4           driver's license shall be revoked for one year, unless pursuant to § 32-23-11.1 the  
5           person pleads guilty to a violation of § 32-23-1 or 32-23-21, prior to a revocation  
6           order being issued; and

7       (3)   The person has the right to have a chemical analysis performed by a technician of the  
8           person's own choosing at the person's own expense, in addition to the test requested  
9           by the officer.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

637E0182

## HOUSE ENGROSSED NO. **HB 1134** - 02/06/2001

Introduced by: Representative Derby and Senator Hutmacher

1 FOR AN ACT ENTITLED, An Act to establish license requirements for well pump installers  
2 and well repairers.

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

4 Section 1. That § 46-2A-1 be amended to read as follows:

5 46-2A-1. The provisions of this chapter apply to any application for:

6 (1) A permit to appropriate water;

7 (2) An amendment of an existing permit or license, including change in use of water or  
8 change in place of use or diversion point of water;

9 (3) A reservation for future use;

10 (4) A permit for flood control;

11 (5) A well driller license;

12 (5A) A well pump installer license;

13 (6) Reinstatement of a permit;

14 (7) A vested right claim; and

15 (8) Other cases as may be specified by statute.



1 Section 2. That § 46-2A-3 be amended to read as follows:

2 46-2A-3. In all cases except applications for a well driller license or a well pump installer  
3 license, chief engineer shall mail a copy of the recommendation to the applicant and, if the  
4 recommendation is to approve or defer the application, a copy of the newspaper notice to be  
5 published and the times when it is to be published. If the recommendation is to deny the  
6 application, the applicant within twenty days of the date the recommendation was mailed shall  
7 state in writing ~~if he~~ whether the applicant intends to oppose the recommendation at a hearing  
8 before the Water Management Board. Failure to submit a statement of intent to oppose a  
9 recommendation to deny to the chief engineer constitutes a withdrawal of the application. If the  
10 applicant chooses to oppose the recommendation, the chief engineer shall provide ~~him~~ the  
11 applicant notice of the hearing to be published pursuant to the provisions of § 46-2A-4. Any cost  
12 of publication shall be borne by the applicant.

13 Section 3. That § 46-2A-4 be amended to read as follows:

14 46-2A-4. Except in the case of an application for a well driller license or a well pump installer  
15 license, if a recommendation is to approve or defer an application or if an applicant has filed a  
16 petition to oppose a recommendation to deny an application, the applicant shall publish notice  
17 of the application and recommendation at least once a week for two successive weeks in one  
18 official newspaper in each county where the water will be diverted or used or project works will  
19 be located. The official newspaper shall be selected by the chief engineer and shall be a  
20 newspaper designated as an official newspaper pursuant to § 7-18-3. The second publication  
21 shall be at least twenty days before the first day of the Water Management Board meeting at  
22 which the matter is noticed to be heard. No application for a permit, license or amendment may  
23 be considered and approved by the board until proof of all required publications has been filed  
24 with the chief engineer. The notice, which shall be provided by the chief engineer to the

1 applicable newspapers, shall include the following, as applicable:

- 2 (1) The name and address of the applicant;
- 3 (2) A brief description of the project, including, where applicable, the proposed place or  
4 places of use of the water or facilities, including the point of diversion, the amount of  
5 water to be used and the purpose for which the water or facility is to be used;
- 6 (3) A brief statement describing the recommendation and the reasons for the  
7 recommendation;
- 8 (4) A statement that any interested person who intends to participate in the hearing shall  
9 file a petition to oppose or support the application and that the petition shall be filed  
10 with the chief engineer and applicant at least ten days before the published date for  
11 hearing;
- 12 (5) A statement that a petition to oppose or support an application may be informal, but  
13 shall be in writing and shall contain the following:
  - 14 (a) A statement describing the petitioner's interest in the application;
  - 15 (b) The reasons for the petitioner's opposition to or support for the application;
  - 16 and
  - 17 (c) The signature and mailing address of the petitioner or ~~his~~ the petitioner's legal  
18 counsel;
- 19 (6) A statement telling where copies of the recommendation, application or other  
20 information may be obtained;
- 21 (7) The time when and the place where the application will be considered by the board;
- 22 (8) A statement that the recommendation of the chief engineer is not final or binding upon  
23 the board and is subject to the approval of the board after it reaches a conclusion  
24 based on facts at the public hearing;

1 (9) A statement that the time of hearing will be automatically extended for at least twenty  
2 days upon written request of the applicant or any person who has filed a petition to  
3 oppose or support the application and a statement that any such request by the  
4 applicant or person filing a petition shall be made at least ten days before the  
5 published date for hearing; and

6 (10) A statement that if the applicant does not contest the recommendation of the chief  
7 engineer and no petition to oppose the application is received, the chief engineer shall  
8 act on the application pursuant to ~~his~~ the chief engineer's recommendation and no  
9 hearing may be held before the board, unless the chief engineer makes a finding that  
10 an application, even if uncontested, presents important issues of public policy or  
11 public interest that should be heard by the board.

12 Section 4. That § 46-2A-13 be amended to read as follows:

13 46-2A-13. In the case of an application for a well driller license or a well pump installer  
14 license, the chief engineer may issue the license. If ~~his~~ the chief engineer's recommendation is to  
15 deny the license or to defer ~~his~~ the decision on the license, ~~he~~ the chief engineer shall mail a copy  
16 of ~~his~~ the recommendation to the applicant with a statement of the reasons for ~~his~~ the  
17 recommendation and the time and place of the hearing before the Water Management Board on  
18 ~~his~~ the recommendation, in accordance with the provisions of chapter 1-26.

19 Section 5. That chapter 46-6 be amended by adding thereto a NEW SECTION to read as  
20 follows:

21 Any person who performs work for compensation in the repair of wells or as a well pump  
22 installer shall obtain a well driller's license issued pursuant to § 46-6-9 or a well pump installer's  
23 license issued pursuant to section 6 of this Act before conducting or contracting for such work.

24 Section 6. That chapter 46-6 be amended by adding thereto a NEW SECTION to read as

1 follows:

2 The Water Management Board shall issue a well pump installer license to any applicant who  
3 meets the requirements specified in this section. The fee for the license is fifty dollars, and fifty  
4 dollars shall be paid each calendar year for renewal of the license. The fee shall be paid to the  
5 Department of Environment and Natural Resources and deposited by the state treasurer in the  
6 state general fund. The license shall be issued pursuant to the procedures contained in chapter  
7 46-2A. No license may be issued unless the applicant is experienced and knowledgeable in well  
8 pump installation methods. The Water Management Board shall promulgate rules pursuant to  
9 chapter 1-26 establishing well pump installation qualifications.

10 Section 7. That § 46-6-9.1 be amended to read as follows:

11 46-6-9.1. The chief engineer may initiate an action before the Water Management Board to  
12 revoke the license of any well driller or well pump installer upon refusal by the driller to properly  
13 complete any well or well pump installation in accordance with rules governing well construction  
14 or well pump installation or upon violation of this title, or any rule, ~~regulation~~ or order  
15 promulgated ~~thereunder~~ pursuant to this title. Any action for the revocation of a well driller's or  
16 well pump installer's license shall comply with the provisions of § 1-26-19. A well driller or well  
17 pump installer whose license has been revoked may not apply for a new license sooner than six  
18 months after the effective date of the revocation.

19 Section 8. Any plumbing contractor licensed under chapter 36-25, any electrical contractor  
20 licensed under chapter 36-16, and any mechanical contractor licensed under municipal ordinances  
21 may be exempt from the well pump installer licensure requirements of this Act.

22 Section 9. No licensed well pump installer or well driller may perform any electrical,  
23 plumbing, or mechanical act regulated by state law unless licensed to do so. All applicable rules  
24 and regulations of state law and municipal ordinances shall apply regarding any permit and any

1 installation practice.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

372E0203

## HOUSE ENGROSSED NO. **HB 1148** - 01/31/2001

Introduced by: Representative Derby and Senator Diedrich (Larry)

1 FOR AN ACT ENTITLED, An Act to authorize certain activities by golf course designers.

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

3 Section 1. That chapter 36-18A be amended by adding thereto a NEW SECTION to read  
4 as follows:

5 Nothing in this chapter prohibits any person from engaging in the practice of, or offering to  
6 engage in practice as, a golf course designer. For purposes of this section, the term, golf course  
7 designer, means a person who performs professional services such as consultation, investigation,  
8 reconnaissance, research, design, preparation of drawings and specifications, and responsible  
9 supervision, if the predominant purpose of such service is the design of a golf course.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

158E0332

HOUSE EDUCATION COMMITTEE ENGROSSED NO.

**HB 1149** - 01/31/2001

Introduced by: Representatives Holbeck, Bartling, Begalka, Brown (Richard), Elliott, Garnos, Hunhoff, Jensen, Juhnke, McCoy, Pederson (Gordon), Rhoden, Van Etten, and Wick and Senators Ham, Brosz, and Olson (Ed)

1 FOR AN ACT ENTITLED, An Act to provide that school districts or school bus contracting  
2 companies be notified when the commercial driver license of a school bus driver is suspended  
3 or revoked.

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

5 Section 1. That chapter 32-12 be amended by adding thereto a NEW SECTION to read as  
6 follows:

7 If a person's commercial driver license bearing a school bus endorsement is suspended or  
8 revoked pursuant to this chapter, the Department of Commerce and Regulation shall, upon the  
9 suspension or revocation, notify the Department of Education and Cultural Affairs. The  
10 Department of Education and Cultural Affairs shall notify the school district or school bus  
11 contracting company for which the person is employed of the suspension or revocation. The  
12 notification may be done by first class mail.

13 Section 2. That chapter 32-12 be amended by adding thereto a NEW SECTION to read as  
14 follows:

1        Each school district and school bus contracting company shall report to the Department of  
2 Education and Cultural Affairs, in a manner prescribed by the secretary, the names and social  
3 security numbers of all individuals it employs as bus drivers. The school district and school bus  
4 contracting company shall inform the department of any changes to the list within seven days  
5 after they occur.



# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

448E0567

SENATE JUDICIARY COMMITTEE ENGROSSED NO.

**HB 1154** - 02/12/2001

Introduced by: Representatives Adelstein, Abdallah, Brown (Richard), and Duniphan and  
Senator Whiting

1 FOR AN ACT ENTITLED, An Act to clarify the application of certain driving privilege  
2 penalties with regard to juvenile adjudications.

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

4 Section 1. That § 32-12-52.4 be amended to read as follows:

5 32-12-52.4. Upon a first conviction or a first adjudication of delinquency for violation, while  
6 in a motor vehicle, of § 35-9-2, the court shall suspend the driver's license or driving privilege  
7 of any driver of a vehicle who was under the age of twenty-one when the offense occurred, for  
8 a period of six months.

9 Upon a second or subsequent conviction or a second or subsequent adjudication of  
10 delinquency for a violation, while in a motor vehicle, of § 35-9-2, the court shall suspend the  
11 driver's license or driving privilege of any driver of a vehicle who was under the age of  
12 twenty-one when the offense occurred, for a period of one year. For any offense under this  
13 section, the court may issue an order permitting the person to operate a motor vehicle for  
14 purposes of the person's employment or attendance at school.

1 Notwithstanding the provisions of chapters 26-7A, 26-8A, 26-8B, and 26-8C, the Unified  
2 Judicial System shall notify the Department of Commerce and Regulation of any conviction or  
3 adjudication for a violation, while in a motor vehicle, of § 35-9-2 or chapter 32-23. The period  
4 of suspension shall begin on the date the person's suspended driver's license is received by the  
5 court or the Department of Commerce and Regulation. At the expiration of the period of  
6 suspension, a person may make application to have the license reinstated and pay the license fee  
7 as prescribed in § 32-12-47.1.

8 Section 2. That § 35-9-7 be amended to read as follows:

9 35-9-7. If the conviction or adjudication for a violation of § 35-9-1, 35-9-1.1, or 35-9-2 is  
10 for a first offense, the court shall, in addition to any other penalty allowed by law, order the  
11 ~~revocation~~ suspension of the defendant's driving privileges for a period not less than thirty days  
12 and not to exceed one year. However, the court may issue an order permitting the person to  
13 operate a motor vehicle for purposes of the person's employment or attendance at school or to  
14 court-ordered counseling programs during the hours of the day and the days of the week set  
15 forth in the order. The court may also restrict the privilege in such manner as it sees fit for a  
16 period not to exceed one year.

17 If the conviction or adjudication for a violation of § 35-9-1, 35-9-1.1, or 35-9-2 is for a  
18 second or subsequent offense, the court shall, in addition to any other penalty allowed by law,  
19 order the ~~revocation~~ suspension of the defendant's driving privileges for a period not less than  
20 sixty days and not to exceed one year.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

663E0609

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

**HB 1177** - 02/05/2001

Introduced by: Representatives Slaughter, Bartling, Flowers, Hennies (Thomas), Jaspers, Madsen, and Sebert and Senators Diedrich (Larry), McCracken, and Moore

1 FOR AN ACT ENTITLED, An Act to revise when certain assessments have to be paid before  
2 an assessment may be appealed.

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

4 Section 1. That § 10-59-9 be amended to read as follows:

5 10-59-9. Any taxpayer against whom a certificate of assessment is issued may request a  
6 hearing before the secretary if the taxpayer believes that the assessment is based upon a mistake  
7 of fact or an error of law. A request for hearing shall be made in writing within thirty days from  
8 the date of the certificate of assessment and shall contain a statement indicating the portion of  
9 the assessment being contested and the mistake of fact or error of law the taxpayer believes  
10 resulted in an invalid assessment. Amended or additional statements of facts or errors of law may  
11 be made not less than fourteen days prior to the hearing if the hearing examiner determines such  
12 additional or amended statements are in the interest of justice and do not prejudice either party.  
13 Hearings are conducted and appeals taken pursuant to the provisions of ~~chapter 1-26~~ chapters  
14 1-26 and 1-26D. A copy of the hearing examiner's proposed decision, findings of fact and

1 conclusions of law shall be served on all parties when furnished to the secretary. ~~No~~ If the  
2 secretary, pursuant to chapter 1-26D, accepts the final decision of the hearing examiner, no  
3 appeal from a final decision of the secretary upon an assessment may be taken unless any amount  
4 ordered paid by the secretary is paid or a bond filed to insure payment of such amount. However,  
5 if the final decision of the secretary, pursuant to chapter 1-26D, rejects or modifies the decision  
6 of the hearing examiner regarding the amount due on the assessment, an appeal may be taken  
7 without payment of the amount ordered to be paid and without filing of a bond. If the secretary's  
8 decision is affirmed by the circuit court, no appeal may be taken unless any amount ordered to  
9 be paid by the secretary is paid or a bond is filed to insure payment of such amount.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

655E0510

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

**HB 1198** - 02/05/2001

Introduced by: Representative Duniphan and Senator Albers

1 FOR AN ACT ENTITLED, An Act to provide for a possessory lien on the contents of certain  
2 towed vehicles.

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

4 Section 1. That § 32-30-18 be amended to read as follows:

5 32-30-18. The sheriff, law enforcement officer, or towing agency taking custody of any  
6 vehicle under the provisions of §§ 32-30-12 to 32-30-17, inclusive, 32-30-19, and 32-36-4 ~~shall~~  
7 ~~have~~ has a possessory lien on the vehicle and the contents of the vehicle for the reasonable costs  
8 in taking custody and storing of the vehicle which may not exceed five hundred dollars. No  
9 possessory lien attaches to the tools and implements which a person uses and keeps for the  
10 purpose of carrying on his or her trade or business or to any clothing or food.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

366E0136

SENATE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB 1200** - 02/14/2001

Introduced by: Representatives Broderick, Hargens, and Pummel and Senators Greenfield, Ham, Hutmacher, and Munson

1 FOR AN ACT ENTITLED, An Act to require certain format standards for real estate  
2 documents filed at the register of deeds.

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

4 Section 1. That chapter 43-28 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 Any real estate document recorded with the register of deeds, except for plats, shall:

7 (1) Consist of one or more individual sheets measuring no larger than 8.5 inches by 14  
8 inches. Beginning on July 1, 2004, the document shall consist of one or more  
9 individual sheets measuring no larger than 8.5 inches by 11 inches. No sheet may be  
10 attached or affixed to a page that covers up any information or printed material on the  
11 document. Any continuous document or any document sheets that are stapled, glued,  
12 or bound together are subject to the additional fee established pursuant to subdivision  
13 7-9-15(1);

14 (2) Be printed, typewritten, or computer generated in black ink and the print type of the

1 document may not be smaller than 10-point type;

2 (3) Be on white paper of not less than twenty pound weight;

3 (4) Contain a blank space at the top measuring three inches as measured from the top of  
4 the page. The right half shall be used by the register of deeds for recording  
5 information and left half used to designate the document preparer as required pursuant  
6 to § 7-9-1. Any subsequent page shall have a minimum of a one inch margin on each  
7 side;

8 (5) Have a title prominently displayed at the top of the first page below the blank space  
9 referred to in subdivision (4) of this section;

10 (6) Be sufficiently legible to reproduce a readable copy using the register of deed's current  
11 method of reproduction; and

12 (7) Conform to the standards provided in subdivision (1) of this section or be subject to  
13 the increased fees as provided in § 7-9-15.

14 Section 2. That § 7-9-15 be amended to read as follows:

15 7-9-15. The register of deeds shall charge and receive the following fees:

16 (1) For recording deeds, mortgages, and all other instruments not specifically provided  
17 for in this section or this code, the sum of ten dollars for the first page and two dollars  
18 for each additional page or fraction thereof. Each rider or addendum shall be  
19 considered as an additional page. If a real estate document recorded with the register  
20 of deeds does not conform to section 1 of this Act, the sum of ten dollars shall be  
21 charged in addition to the fees specified in this subdivision;

22 (2) For a certified copy of any instrument of record, including certificate and official seal,  
23 two dollars plus twenty cents for each page after five pages, and for an uncertified  
24 copy, one dollar, plus twenty cents for each page after five pages. The board of

1 county commissioners by resolution shall establish the fees charged for duplicate  
2 microfilm. In addition to the fee for a certified copy of the record of any birth, there  
3 is an additional charge of two dollars for each copy requested, which shall be  
4 submitted on a monthly basis to the state treasurer to be deposited in the children's  
5 trust fund;

6 (3) For filing and indexing a bill of sale, seed grain lien, or thresher's lien, the sum of ten  
7 dollars. No fee may be charged for filing any satisfaction or termination of any  
8 instrument as prescribed in this subdivision;

9 (4) For recording oil, gas, and mineral leases, and other recorded documents relating to  
10 mineral or oil and gas lease exploration and development, six dollars per page; and

11 (5) Notwithstanding the provisions of subdivision (2) of this section, the board of county  
12 commissioners shall fix by resolution the fees to be paid by licensed abstracters of the  
13 county or by any person who has passed the written examination established by the  
14 Abstracters' Board of Examiners pursuant to § 36-13-11 for uncertified copies of  
15 recorded instruments, which fee may not exceed the actual cost to the county for  
16 providing such copies.

17 The register of deeds may not charge a fee for discharging or canceling any personal property  
18 lien.

19 Section 3. This Act is effective on July 1, 2002.



# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

544E0644

HOUSE COMMERCE COMMITTEE ENGROSSED NO.

**HB 1205** - 02/01/2001

Introduced by: Representatives Konold, Olson (Mel), and Solum and Senators Bogue,  
Albers, Moore, Olson (Ed), and Vitter

1 FOR AN ACT ENTITLED, An Act to provide for the licensing of certain real estate  
2 corporations and limited liability companies.

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

4 Section 1. That chapter 36-21A be amended by adding thereto a NEW SECTION to read  
5 as follows:

6 A real estate salesperson or broker associate employed by or otherwise associated with a  
7 broker may form a business corporation or limited liability company under all the following  
8 conditions:

- 9 (1) The business corporation or limited liability company does not engage in real estate  
10 transactions as a third-party agent or in any other capacity requiring a license under  
11 this chapter;
- 12 (2) The business corporation or limited liability company does not advertise or otherwise  
13 hold itself out as a real estate brokerage company;
- 14 (3) The employing or associating broker is not relieved of any obligation to supervise the

1 employed or associated licensee or any other requirement of this chapter or the rules  
2 adopted pursuant to this chapter;

3 (4) The employed or associated licensee is not relieved of any personal liability for any  
4 licensed activities by interposing the corporate or limited liability form;

5 (5) The business corporation or limited liability company is owned solely by an individual  
6 real estate salesperson or broker associate, or by that person and that person's spouse;  
7 and

8 (6) The business corporation or limited liability company is approved by and registered  
9 with the commission. The registration fee for an approved business corporation or  
10 limited liability company shall be established by rule promulgated pursuant to chapter  
11 1-26. The fee may not exceed one hundred dollars.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

447E0375

SENATE TAXATION COMMITTEE ENGROSSED NO.

**HB 1216 - 02/14/2001**

Introduced by: Representatives Lange, Burg, Flowers, Hanson (Gary), Hargens, Holbeck, Klautdt, Kloucek, Kooistra, Lintz, Nachtigal, Peterson (Jim), Sigdestad, and Van Norman and Senators Koetzle and Reedy

1 FOR AN ACT ENTITLED, An Act to revise the procedure for filing for a property tax credit  
2 for renewable resource energy systems.

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

4 Section 1. That § 10-6-35.16 be amended to read as follows:

5 10-6-35.16. An applicant for an energy property tax assessment credit shall file two copies  
6 of the statement with the ~~auditor~~ county director of equalization of the county in which the  
7 property is located and one copy with the Department of Revenue. An owner of more than one  
8 renewable resource energy system shall file a separate statement for each system. The statement  
9 shall be filed between November first and December tenth of ~~each~~ the first year for which the  
10 credit is to be applied. The applicant does not need to resubmit the application for the property  
11 tax assessment credit unless the property ownership is transferred or the property has a change  
12 in use.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

400E0756

SENATE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB 1276** - 02/14/2001

Introduced by: Representatives Kooistra, Brown (Richard), Duenwald, Duniphan, Flowers, Fryslie, Holbeck, Jaspers, McCaulley, Slaughter, Teupel, and Van Gerpen and Senators Olson (Ed), Albers, de Hueck, Moore, Sutton (Dan), and Vitter

1 FOR AN ACT ENTITLED, An Act to require historical or educational municipal corporations  
2 to maintain their property.

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

4 Section 1. That chapter 9-3 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 A municipality incorporated pursuant to § 9-3-22 shall exist so long as the corporation  
7 maintains all lands, buildings, fences, fixtures, billboards, signs, and other improvements in good  
8 condition and repair, and is actively operating for the purposes for which it is incorporated, or  
9 until the corporation is dissolved in accordance with law. The municipality shall possess and  
10 maintain its historical or educational integrity of design, materials, and workmanship of the sites,  
11 buildings, structures, and objects that are located within the platted municipal corporation,  
12 including advertising and promotional signs. The municipality shall lose its historical or  
13 educational municipality designation if more than one-fourth of such properties possess any of

1 the following conditions:

- 2 (1) Loss or disintegration of the roof or roofing materials;
- 3 (2) Loss of windows;
- 4 (3) Deterioration or missing siding material;
- 5 (4) Unstable foundations;
- 6 (5) Leaning severely from plumb; and
- 7 (6) Billboards or signs identifying, promoting, or advertising the municipality no longer
- 8 conform to the requirements of chapter 31-29.

9 However, for the purposes of subdivision (6), the twelve continuous months required for  
10 determining a sign is abandoned does not apply.

11 Section 2. That chapter 9-3 be amended by adding thereto a NEW SECTION to read as  
12 follows:

13 The South Dakota Department of Transportation or the county in which the historic or  
14 educational municipality is located may take action, pursuant to section 1 of this Act, to dissolve  
15 the municipal corporation pursuant to the provisions of chapter 1-26.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

712E0013

## SENATE APPROPRIATIONS COMMITTEE

### ENGROSSED NO. **SB 14** - 02/15/2001

**This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.**

Introduced by: Senators Brosz, Diedrich (Larry), Everist, Hutmacher, McIntyre, Munson, and Reedy and Representatives Juhnke, Brown (Richard), Heineman, and Pummel at the request of the Interim Education Committee

1 FOR AN ACT ENTITLED, An Act to provide for reimbursement of tuition and fees to certain  
2 students and to make an appropriation therefor.

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

4 Section 1. Any undergraduate student who attends a South Dakota public university who  
5 agrees to teach in a South Dakota public school district for a period of four years, beginning with  
6 the school year following the year in which the student graduates from a South Dakota public  
7 university is eligible for reimbursement grants of tuition and fees paid for the last two full years,  
8 not to exceed the tuition and fees for sixty-four semester-hours.

9 Section 2. An eligible student may apply to the Board of Regents for reimbursement as  
10 provided for in section 1 of this Act after the eligible student has graduated from a South Dakota  
11 public university.

12 Section 3. If an eligible student fails to meet the terms of the agreement provided for in  
13 section 1 of this Act, the student is required to repay any money received under the provisions

1 of this Act, plus any interest and penalty as may be determined by the Board of Regents,  
2 provided that the repayment plus interest and penalty may not exceed the twice the amount of  
3 money received.

4 Section 4. The Board of Regents may promulgate rules pursuant to chapter 1-26 to  
5 implement the provisions of this Act.

6 Section 5. There is hereby appropriated out of any money in the general fund the sum of  
7 three million eight hundred thousand dollars (\$3,800,000) to the Board of Regents to make  
8 reimbursement grants as provided for in this Act.

9 Section 6. The executive director of the Board of Regents shall approve vouchers and the  
10 state auditor shall draw warrants to pay expenditures authorized by this Act.

11 Section 7. Any amounts appropriated in this Act not lawfully expended or obligated by  
12 June 30, 2002, shall revert in accordance with § 4-8-21.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

400E0322

SENATE APPROPRIATIONS COMMITTEE

ENGROSSED NO. **SB 51** - 02/15/2001

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

1 FOR AN ACT ENTITLED, An Act to provide for the distribution of certain funds from the  
2 special revolving fund and the South Dakota-bred racing fund to promote South Dakota  
3 horse racing, to transfer funds from the special racing revolving fund and the South Dakota-  
4 bred racing fund to the Department of Social Services for domestic and sexual abuse shelter  
5 programs, and to make an appropriation therefor.

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

7 Section 1. The Commission on Gaming shall, on or about December 31, 2001, and annually  
8 thereafter, unless sufficient revenue is not received by the funds, allocate the first two hundred  
9 fifty thousand dollars from the special racing revolving fund and the first two hundred fifty  
10 thousand dollars from the South Dakota-bred racing fund to licensees, licensed by the  
11 commission to conduct live horse racing under § 42-7-68 for the purposes of providing  
12 compensation to South Dakota bred horses and for purse supplements or racing operations,  
13 unless such licenses do not conduct a total of fourteen live horse racing days. If either such  
14 licensee conducts fewer live horse racing days than such licensee conducted in 2001, such



1 allocation shall be reduced proportionately. Such annual allocations shall be increased annually  
2 by an index factor which shall be the annual percentage change in the consumer price index for  
3 urban wage earners and clerical workers as computed by the Bureau of Labor Statistics of the  
4 United States Department of Labor for the year before the year immediately preceding the year  
5 of adjustment or three percent, whichever is less. Thereafter, the Commission on Gaming on or  
6 about July 15, 2001, shall transfer one hundred twenty-five thousand dollars from the special  
7 racing revolving fund and one hundred twenty-five thousand dollars from the South Dakota-bred  
8 racing fund to the Department of Social Services to provide grants to qualifying contractors  
9 according to the provisions of §§ 25-10-26 to 25-10-33, inclusive. The commission shall allocate  
10 and disperse on the effective date of this Act fifty thousand dollars (\$50,000) from the South  
11 Dakota-bred racing fund to the Aberdeen horse racing track for center rail replacement and track  
12 maintenance and repair. The commission shall allocate and disperse on the effective date of this  
13 Act fifteen thousand dollars (\$15,000) from the South Dakota-bred racing fund to the Fort Pierre  
14 horse racing track for maintenance and repair.

15 Section 2. There is hereby appropriated the sum of two hundred fifty thousand dollars  
16 (\$250,000), of other fund expenditure authority, or so much thereof as may be necessary, to the  
17 Department of Social Services for the expenditure of funds provided in section 1 of this Act.

18 Section 3. The secretary of social services shall approve vouchers and the state auditor shall  
19 draw warrants to pay expenditures authorized by this Act.

20 Section 4. Any amounts appropriated in this Act not lawfully expended or obligated by  
21 June 30, 2002, shall revert in accordance with § 4-8-21.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

307E0387

SENATE EDUCATION COMMITTEE ENGROSSED NO.

## SB 153 - 02/15/2001

**This bill has been extensively amended (houghoused) and may no longer be consistent with the original intention of the sponsor.**

Introduced by: Senators Olson (Ed), de Hueck, Dennert, Duxbury, Ham, Hutmacher, Koetzle, McIntyre, Moore, Munson, Reedy, Sutton (Dan), Symens, and Vitter and Representatives Brown (Richard), Davis, Elliott, Flowers, Gillespie, Hennies (Don), Hennies (Thomas), Holbeck, Kooistra, Lintz, Madsen, McCoy, Murschel, Nesselhuf, Olson (Mel), and Pederson (Gordon)

1 FOR AN ACT ENTITLED, An Act to require school districts to employ certified personnel in  
2 administrative positions.

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

4 Section 1. That chapter 13-8 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 Only a person with a valid South Dakota certificate pursuant to chapter 13-42 may be  
7 employed in an administrative capacity, acting as a superintendent or principal. The professional  
8 practices commission regulating the profession for which the person is certified shall have the  
9 authority to reprimand or to recommend a disciplinary action against a person employed under  
10 this section, regardless of the person's assigned position.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

984E0653

## SENATE APPROPRIATIONS COMMITTEE ENGROSSED NO. **SB 157** - 02/14/2001

Introduced by: The Committee on Government Operations and Audit

1 FOR AN ACT ENTITLED, An Act to require the Department of Corrections to seek  
2 accreditation by the American Correctional Association, to make an appropriation therefor,  
3 and to declare an emergency.

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

5 Section 1. The Department of Corrections shall seek American Correction Association  
6 accreditation for all juvenile correctional facilities operated by the State of South Dakota. The  
7 Department of Corrections shall apply for application status by entering into a contractual  
8 agreement with the American Correctional Association. The agreement shall specify the  
9 applicable standards manual and the required fees.

10 Section 2. The Department of Corrections shall appoint two accreditation managers who  
11 shall organize and supervise agency resources and activities to achieve accreditation.

12 Section 3. The Department of Corrections shall complete a report of the results of the  
13 accreditation hearing including costs of mandatory and nonmandatory standard compliance and  
14 forward the report to the Government Operations and Audit Committee created in § 2-6-2 when  
15 the American Correctional Association has made its recommendations.

1 Section 4. The Government Operations and Audit Committee shall review the report and the  
2 cost estimates presented by the Department of Corrections and shall either propose legislation  
3 continuing the accreditation process or shall make a report to the full Legislature stating reasons  
4 the accreditation process should be discontinued. If there is a minority opinion, it shall also be  
5 included in the report.

6 Section 5. There is hereby appropriated two full-time equivalent positions assigned to the  
7 Department of Corrections to organize and supervise agency resources and activities to achieve  
8 American Correctional Association accreditation. The authority for these full-time equivalents  
9 will expire June 30, 2002.

10 Section 6. There is hereby appropriated from the general fund the sum of one hundred  
11 eighty-two thousand five hundred seventy dollars (\$182,570), or so much thereof as may be  
12 necessary, to the Department of Corrections to accomplish the purposes of this Act.

13 Section 7. The secretary of corrections shall approve vouchers and the state auditor shall  
14 draw warrants to pay expenditures authorized by this Act.

15 Section 8. Any amounts appropriated in this Act not lawfully expended or obligated by  
16 June 30, 2002, shall revert in accordance with § 4-8-21.

17 Section 9. Effective July 1, 2001, no child in the custody of the State of South Dakota or any  
18 subdivision thereof may be placed in any program unless that program is actively seeking  
19 accreditation through application, or is accredited by the American Corrections Association if  
20 such accreditation is available.

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

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

834E0094

SENATE TAXATION COMMITTEE ENGROSSED NO.

**SB 166** - 02/14/2001

**This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.**

Introduced by: Senator Koskan and Representatives Juhnke, Jensen, and Napoli

1 FOR AN ACT ENTITLED, An Act to provide for a Streamlined Sales Tax Project Task Force,  
2 to make an appropriation therefor, and to declare an emergency.

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

4 Section 1. There is established the Streamlined Sales Tax Project Task Force. The task force  
5 shall study the final report of the Streamlined Sales Tax Project to determine how the  
6 requirements found in the report impact the sales and use tax laws of South Dakota. The study  
7 shall include an analysis on the how the requirements found in the report will impact the  
8 businesses and citizens of South Dakota. The task force shall report its findings to the  
9 Legislature and Governor by December 1, 2001. The task force shall have fifteen members. The  
10 Executive Board of the Legislative Research Council shall appoint seven members of the South  
11 Dakota Legislature to serve on the task force. The Governor shall appoint two people  
12 representing the South Dakota Retailer's Association, two people representing the South Dakota  
13 Industry and Commerce Association, two people representing the South Dakota Municipal  
14 League, and two people representing the Department of Revenue to the task force.

1       Section 2. There is hereby appropriated from the general fund the sum of twenty thousand  
2 dollars (\$20,000), or so much thereof as may be necessary, to the Executive Board of the  
3 Legislative Research Council for the purpose of the task force authorized by section 1 of this  
4 Act.

5       Section 3. The director of the Legislative Research Council shall approve vouchers and the  
6 state auditor shall draw warrants to pay expenditures authorized by this Act.

7       Section 4. Any amounts appropriated in this Act not lawfully expended or obligated by  
8 June 30, 2002, shall revert in accordance with § 4-8-21.

9       Section 5. Whereas, this Act is necessary for the support of the state government and its  
10 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full  
11 force and effect from and after its passage and approval.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

474E0470

SENATE TAXATION COMMITTEE ENGROSSED NO.

**SB 179** - 02/13/2001

Introduced by: Senator de Hueck and Representative Monroe

1 FOR AN ACT ENTITLED, An Act to revise the appeal procedure concerning the factor used  
2 for valuing agricultural and nonagricultural property.

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

4 Section 1. That § 10-13-37.2 be amended to read as follows:

5 10-13-37.2. Any person, firm, corporation, public or private, taxing district, or state  
6 department interested, may appeal from the decision of the secretary of revenue in calculating  
7 a factor for agricultural and nonagricultural valuations pursuant to § 10-13-37.1. The appeal ~~may~~  
8 shall be made to the Office of Hearing Examiners or the circuit court ~~in the manner prescribed~~  
9 ~~in chapter 10-11 for taking appeals from decisions of the county board of equalization pursuant~~  
10 to chapters 1-26 and 1-26D.

11 Section 2. That § 10-13-37.1 be amended to read as follows:

12 10-13-37.1. For purposes of §§ 10-3-41, 10-12-31.1, and 10-13-37, the secretary of revenue  
13 shall calculate a factor for each county for the agricultural and nonagricultural valuations. The  
14 factor shall be calculated by using the sales of arms-length transactions and the assessments from  
15 the preceding assessment year. The secretary shall take into consideration any reappraisals

1 completed by the director of equalization. If there are less than fifteen sales of either class, the  
2 secretary shall use the preceding year's sales of that class with current assessments. In the case  
3 of agricultural land, sales may also be bridged in from adjoining counties if there are less than  
4 fifteen sales. The secretary of revenue shall calculate all factors pursuant to this section no later  
5 than March first.

6 Section 3. That § 10-11-43 be amended to read as follows:

7 10-11-43. An appeal from the Office of Hearing Examiners to circuit court may be taken by  
8 the parties to the appeal and interveners before the Office of Hearing Examiners. The appeal shall  
9 be taken and conducted pursuant to the provisions of chapter 1-26.

10 The venue of the appeal shall be in the circuit court for the county in which the property  
11 subject to the appeal is situated. The venue of appeals taken from 10-13-37.2 shall be in either  
12 the county in which the property subject to the appeal is situated or to the circuit court for  
13 Hughes County, as the appellant may elect.



# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

583E0394

## SENATE EDUCATION COMMITTEE ENGROSSED NO. **SB 220** - 02/15/2001

Introduced by: Senator Moore and Representative Kooistra

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to the suspension of  
2 students from extracurricular activities for certain drug and marijuana offenses.

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

4 Section 1. That § 13-32-9 be amended to read as follows:

5 13-32-9. Any person adjudicated, convicted, or the subject of a suspended imposition of  
6 sentence for possession, use, or distribution of controlled substances or marijuana as defined in  
7 chapter 22-42 is ineligible to participate in any extracurricular activity at any secondary school  
8 accredited by the Department of Education and Cultural Affairs for one year. The one-year  
9 suspension may be reduced to sixty calendar days if the person participates in an assessment with  
10 a certified chemical dependency counselor and completes a minimum of thirty hours of  
11 counseling with a certified chemical dependency counselor or completes an accredited intensive  
12 prevention program. If the assessment indicates the need for a higher level of care, the student  
13 shall complete the prescribed program before becoming eligible to participate in activities.

14 Upon a subsequent adjudication, conviction, or suspended imposition of sentence for  
15 possession, use, or distribution of controlled substances or marijuana by a court of competent

1 jurisdiction, that person is ineligible to participate in any extracurricular activity while that person  
2 is attending any school accredited by the Department of Education and Cultural Affairs. The  
3 permanent suspension may be reduced to one hundred twenty calendar days if the person  
4 participates in a complete alcohol, tobacco, and other drug assessment with a certified chemical  
5 dependency counselor and completes a minimum of sixty hours of counseling with a certified  
6 chemical dependency counselor or completes an accredited treatment program. The student shall  
7 complete the prescribed program before becoming eligible to participate in activities.

8       Upon ~~such a~~ determination in any juvenile proceeding that a person has been adjudicated,  
9 convicted, or received a suspended imposition of sentence for possession, use, or distribution of  
10 controlled substances or marijuana, the Unified Judicial System shall give notice of that  
11 determination to the South Dakota High School Activities Association and the chief  
12 administrator of the school in which the person is enrolled.

13       As used in this section, the term, extracurricular activity, means any activity sanctioned by  
14 the South Dakota High School Activities Association.

15       Section 2. If a person is adjudicated, convicted, or the subject of a suspended imposition of  
16 sentence for distribution of controlled substances or marijuana, the person's suspension may not  
17 be reduced according to the provisions of this Act.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

400E0768

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **SB 226** - 02/13/2001

Introduced by: Senators Everist and Brown (Arnold) and Representatives Peterson (Bill)  
and Eccarius

1 FOR AN ACT ENTITLED, An Act to revise and supplement certain powers of the South  
2 Dakota Building Authority, to provide for the establishment of a corporation by the South  
3 Dakota Building Authority for the purpose of raising funds for specified purposes, to provide  
4 for transfer and sale at any one time or from time to time of a portion of or all future right,  
5 title, and interest of the State of South Dakota to certain amounts payable to the state by  
6 various tobacco companies under a master settlement agreement in exchange for the deposit  
7 of the net proceeds of such sale into the state permanent tobacco settlement development  
8 trust fund, and to establish certain funds.

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

10 Section 1. Terms used in this Act, mean:

- 11 (1) "Authority," the South Dakota Building Authority, a body corporate and politic,  
12 organized and existing under chapter 5-12;
- 13 (2) "Bonds," bonds, bond anticipation notes, notes, certificates of ownership or  
14 indebtedness, or other obligations issued, incurred, or otherwise created under the

1 authority of this Act and payable directly or indirectly out of or representing an  
2 interest in tobacco settlement revenues or other rights under or with respect to the  
3 master settlement agreement;

4 (3) "Corporation," the special purpose body corporate and politic established by the  
5 authority by resolution as provided in section 3 of this Act;

6 (4) "Development programs," any program described in section 13 of this Act;

7 (5) "Master settlement agreement," the master settlement agreement entered into on  
8 November 23, 1998, by attorneys general from the several states (including the State  
9 of South Dakota) and various tobacco companies, as now or hereafter amended,  
10 supplemented, or restated;

11 (6) "Master settlement escrow agent," the escrow agent under the master settlement  
12 agreement;

13 (7) "Net proceeds of bonds," the original proceeds of bonds issued under this Act less any  
14 amounts applied or to be applied to pay transaction and administrative expenses and  
15 to fund any reserves deemed necessary or appropriate by the corporation, but does  
16 not include any investment earnings realized thereon;

17 (8) "Net proceeds of sale of tobacco settlement revenues," the net proceeds of bonds plus  
18 any residual interest in tobacco settlement revenues received or to be received by the  
19 State of South Dakota from time to time as a result of any sale, conveyance, or other  
20 transfer authorized in section 2 of this Act, but does not include any investment  
21 earnings realized thereon;

22 (9) "Permanent tobacco settlement development trust fund," the State of South Dakota  
23 permanent tobacco settlement development trust fund created by section 10 of this  
24 Act;

1 (10) "Permitted investments," any investment authorized by §§ 4-5-23 and 4-5-26 together  
2 with noncollateralized direct obligations of any bank or savings institution, insurance  
3 company, or bank or insurance holding company if the institution or holding company  
4 is rated in the highest four classifications by at least one standard rating service and  
5 any bond, note, or other obligation of any state or any agency, authority, or other  
6 instrumentality of any state or political subdivision thereof if the bond, note, or other  
7 obligation is rated in the four highest classifications established by at least one  
8 standard rating service;

9 (11) "Residual interest in tobacco settlement revenues," any tobacco settlement revenues  
10 not required to pay principal or interest on bonds or administrative or transaction  
11 expenses of the corporation or authority or to fund reserves or other requirements  
12 relating to bonds issued, incurred, or otherwise created under this Act;

13 (12) "Tobacco settlement residual fund," the tobacco settlement residual fund created by  
14 section 11 of this Act;

15 (13) "Tobacco settlement revenues," all of the amounts now or hereafter payable to the  
16 State of South Dakota under or in connection with the master settlement agreement;

17 (14) "Tobacco development interest fund" the fund created by section 12 of this Act.

18 Section 2. At any one time or from time to time, all or any portion of the right, title, and  
19 interest of the State of South Dakota in, to, and under the master settlement agreement,  
20 including the right to receive and collect tobacco settlement revenues, may be sold, conveyed,  
21 or otherwise transferred by the state to the authority or to a corporation established by the  
22 authority under this Act in exchange for the net proceeds of bonds and a right to the residual  
23 interest in tobacco settlement revenues. The net proceeds of bonds shall be deposited to the  
24 permanent tobacco settlement development trust fund, and the residual interest in tobacco

1 settlement revenues shall be deposited to the tobacco settlement residual fund. Any sale,  
2 conveyance, or other transfer authorized by this section shall be evidenced by an instrument or  
3 agreement in writing signed on behalf of the state by the Governor. The Governor shall file a  
4 certified copy of the instrument or agreement with the Legislature promptly upon execution and  
5 delivery thereof. The instrument or agreement may include an irrevocable direction to the master  
6 settlement escrow agent to pay all or a specified portion of amounts otherwise due to the State  
7 of South Dakota under or in connection with the master settlement agreement, including, without  
8 limitation, all or any portion of tobacco settlement revenues directly to or upon the order of the  
9 authority or corporation, as the case may be, or to any escrow agent or any trustee under an  
10 indenture or other agreement securing any bonds issued, incurred, or created under this Act. The  
11 irrevocable direction to the master settlement escrow agent may include the direction to pay any  
12 residual interest in tobacco settlement revenues initially to or upon the order of the authority or  
13 corporation or to any escrow agent or any trustee under an indenture or other agreement  
14 securing any bonds. Upon the filing of a certified copy of the instrument or agreement by the  
15 Governor, the sale, conveyance, or other transfer of rights under or with respect to the master  
16 settlement agreement, including the right to receive the tobacco settlement revenues, shall, for  
17 all purposes, be a true sale and absolute conveyance of all right, title, and interest therein  
18 described in accordance with the terms thereof, valid, binding, and enforceable in accordance  
19 with the terms thereof and such instrument or agreements and any related instrument, agreement,  
20 or other arrangement, including any pledge, grant of security interest, or other encumbrance  
21 made by the corporation or the authority to secure any bonds issued, incurred, or created by the  
22 corporation or the authority, are not subject to disavowal, disaffirmance, cancellation, or  
23 avoidance by reason of insolvency of any party, lack of consideration, or any other fact,  
24 occurrence, or rule of law. The procedures and requirements set forth in this section shall be the

1 sole procedures and requirements applicable to the sale of the state's rights under the master  
2 settlement agreement, including the sale of tobacco settlement revenues, and it is not necessary  
3 to satisfy or comply with any other existing law which would otherwise apply to the sale of  
4 assets of the state or impose procedures or restrictions with respect thereto.

5 Section 3. That chapter 5-12 be amended by adding thereto a NEW SECTION to read as  
6 follows:

7 The authority may establish by resolution a special purpose corporation which shall be body  
8 corporate and politic and instrumentality of, but having a legal existence independent and  
9 separate from, the State of South Dakota and the authority. The corporation shall be established  
10 for the express limited public purposes set forth in this Act and no part of the net earnings of the  
11 corporation shall inure to any private individual.

12 The corporation shall be governed by a board consisting of the members of the authority and  
13 two additional persons appointed by the Governor, which two additional members shall be  
14 independent from the state. The resolution establishing the corporation shall serve as the charter  
15 of the corporation and may be amended from time to time by the authority, but the resolution  
16 shall at all times provide that the power and the authority of the corporation shall be subject to  
17 the terms, conditions, and limitations of this Act and any applicable covenants or agreements of  
18 the corporation in any indenture or other agreement relating to any then outstanding bonds. The  
19 corporation may enter into contracts regarding any matter connected with any corporate purpose  
20 within the objects and purposes of this Act.

21 The authority and corporation may delegate by resolution to one or more officers or  
22 employees of the authority or corporation such powers and duties as it may deem proper.

23 The corporation may issue bonds and secure repayment of the bonds with amounts payable  
24 out of tobacco settlement revenues or any other property or funds of the corporation.

1       The corporation may pledge as security for any bonds any rights under the master settlement  
2 agreement held by the corporation, including the right to receive or collect tobacco settlement  
3 revenues, moneys, or other funds deposited with, payable to or held by or on behalf of the  
4 corporation, and the proceeds of the foregoing and any proceeds of bonds. Any right of the state  
5 to the residual interest in tobacco settlement revenues shall be, in all respects, junior and  
6 subordinate to any such pledge if and to the extent so provided by the terms of any instrument  
7 or agreement described in section 2 of this Act and signed on behalf of the state by the Governor.  
8 Any such pledge made by the corporation shall be valid and binding from the time the pledge is  
9 made. The property, revenues, moneys, and other funds so pledged and thereafter held or  
10 received by or on behalf of the corporation shall immediately be subject to the lien of the pledge  
11 without any physical delivery thereof or further act; and, subject only to the provisions of prior  
12 pledges or agreements of the corporation, the lien of the pledge shall be valid and binding as  
13 against the state and all parties having claims of any kind in tort, contract, or otherwise against  
14 the corporation irrespective of whether such parties have notice thereof. No ordinance,  
15 resolution, trust agreement, or other instrument by which such pledge is created need be filed or  
16 recorded except in the records of the corporation.

17       In connection with the issuance of bonds or, at any time with respect to bonds, the  
18 corporation may enter into arrangements to provide additional security and liquidity for bonds.  
19 The arrangements may include, without limitation, bond insurance, letters of credit, and lines of  
20 credit by which the corporation may borrow funds to pay or redeem its bonds and purchase or  
21 remarketing arrangements for assuring the ability of owners of the bonds to sell or have  
22 redeemed their bonds. The corporation may enter into contracts and may agree to pay fees to  
23 persons providing the arrangements, including from bond proceeds.

24       The resolution authorizing the issuance of bonds or the indenture or other agreement



1 approved by the resolution may provide that interest rates may vary from time to time depending  
2 upon criteria established by the corporation, which may include, without limitation, a variation  
3 in interest rates as may be necessary to cause bonds to be remarketable from time to time at a  
4 price equal to their principal amount, and may provide for appointment of a national banking  
5 association, bank, trust company, investment banking firm, or other financial institution to serve  
6 as a remarketing agent in that connection. The indenture or other agreement with respect to  
7 bonds may provide that alternative interest rates or provisions will apply during such times as  
8 bonds are held by a person providing a letter of credit or other credit enhancement arrangement  
9 for bonds.

10 In connection with bonds under this Act or the investment of proceeds, bonds, or other funds  
11 of the corporation, the corporation may enter into contracts that it determines necessary or  
12 appropriate to permit it to manage payment or interest rate risk. These contracts may include,  
13 but are not limited to, interest rate exchange agreements; contracts providing for payment or  
14 receipt of funds based on levels of or changes in interest rates; contracts to exchange cash flows  
15 or series of payments; and contracts incorporating interest rate caps, collars, floors, or locks.

16 The corporation may not file a voluntary petition under or be or become a debtor or bankrupt  
17 under the federal bankruptcy code or any other federal or state bankruptcy, insolvency, or  
18 moratorium law or statute as may, from time to time, be in effect and neither any public officer  
19 nor any organization, entity, or other person shall authorize the corporation to be or become a  
20 debtor or bankrupt under the federal bankruptcy code or any other federal or state bankruptcy,  
21 insolvency, or moratorium law or statute, as may, from time to time be in effect.

22 The corporation may not guarantee the debts of another.

23 The corporation may not be required to file any reports with the state other than those  
24 required to be filed with the Legislature by authorities which issue bonds.

1 Except for debts incurred directly by the corporation, no indebtedness, bonds, or obligation,  
2 issued, incurred, or created by the State of South Dakota or any state agency or instrumentality  
3 may be or become a lien, charge, or liability against the corporation or the property or funds of  
4 the corporation.

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

7 The purposes of the corporation established by the authority pursuant to this Act are:

- 8 (1) To purchase, acquire, own, pledge, encumber, or otherwise transfer all right, title, and  
9 interest of the state in, to, and under the master settlement agreement, including,  
10 without limitation, all right, title, and interest to receive or collect tobacco settlement  
11 revenues;
- 12 (2) To raise funds through the issuance of bonds or other obligations or evidences of  
13 indebtedness or ownership or through the sale, transfer, pledge, encumbrance,  
14 securitization, factoring, or other conveyance of the rights described above in  
15 subdivision (1) of this section for the purposes of establishing the permanent tobacco  
16 settlement development trust fund and as otherwise described in this Act;
- 17 (3) To serve the Legislature by making reports concerning the foregoing;
- 18 (4) To sue and be sued and to prosecute and defend, at law or in equity, in any court  
19 having jurisdiction of the subject matter and of the parties;
- 20 (5) To have and to use a corporate seal and to alter the same at pleasure;
- 21 (6) To maintain an office at such place or places as the authority by resolution may  
22 designate;
- 23 (7) To receive funds transferred to it by the authority, the state, or others; and
- 24 (8) To do all things necessary and convenient to carry out the purposes of this chapter.

1       The corporation shall also be vested with the same power and authority, and shall be subject  
2 to the same limitations and conditions, as are applicable to the authority pursuant to §§ 5-12-1.1,  
3 5-12-4, 5-12-5, 5-12-8.1, 5-12-22, 5-12-24, 5-12-26, 5-12-27, 5-12-27.1, 5-12-27.2, 5-12-27.3,  
4 5-12-27.4, 5-12-27.6, 5-12-28, 5-12-38, 5-12-38.1, and 5-12-40, except such power and  
5 authority shall be exercised with respect to and shall be limited to the purposes of the corporation  
6 set forth in section 4 of this Act, the final maturity date of any bonds issued, incurred, or created  
7 hereunder may not be in excess of forty years for the date of delivery thereof, and the  
8 corporation may not engage in any unrelated activities. In addition, the corporation may invest  
9 any of its funds in permitted investments.

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

12       No bond of the corporation issued, incurred, or created under this Act may be or become a  
13 lien, charge, or liability against the State of South Dakota or the authority, nor against the  
14 property or funds of the State of South Dakota or the authority within the meaning of the  
15 Constitution or statutes of South Dakota. In no event may any of the funds deposited into the  
16 permanent tobacco settlement development trust fund, the tobacco settlement interest fund, or  
17 the tobacco settlement residual fund be pledged to secure payment of any bonds issued under the  
18 authority of this Act.

19       Section 6. That chapter 5-12 be amended by adding thereto a NEW SECTION to read as  
20 follows:

21       The State of South Dakota pledges to and agrees with the holders of bonds issued, incurred,  
22 or created under this Act that the state will not limit or alter the rights and powers vested in the  
23 corporation and the authority by this Act so as to impair the terms of any contract made by the  
24 corporation or the authority with those holders or in any way impair the rights and remedies of

1 those holders until such bonds, together with interest thereon, interest on any unpaid installments  
2 of interest, and all costs and expenses in connection with any action or proceedings by or on  
3 behalf of those holders are fully met or discharged. In addition, the state pledges to and agrees  
4 with the holders of bonds issued, incurred, or created under this Act that the state will not limit  
5 or alter the basis on which tobacco settlement revenues that have been sold pursuant to this Act  
6 are to be paid to the corporation or the authority so as to impair the terms of any such contract.  
7 The corporation and authority each may include these pledges and agreements of the state in any  
8 contract with the holders of bonds issued, incurred, or created under this Act.

9 Neither the State of South Dakota nor the authority is liable on bonds issued, incurred, or  
10 created under this Act, those bonds may not be a debt of the state or the authority, and this Act  
11 may not be construed as a guarantee by the state or the authority of the debts of the corporation.  
12 The bonds shall contain a statement to this effect on the face of the bonds.

13 Section 7. That chapter 5-12 be amended by adding thereto a NEW SECTION to read as  
14 follows:

15 The authority is not liable for any bond issued, incurred, or created by the corporation under  
16 this Act or for any act or failure to act of the corporation. The corporation may not be liable for  
17 any obligation of the South Dakota Building Authority or for any act or failure to act by the  
18 building authority.

19 Section 8. That chapter 5-12 be amended by adding thereto a NEW SECTION to read as  
20 follows:

21 The corporation is hereby declared to be performing a public function on behalf of the state  
22 and to be a public instrumentality of the state. The income of the authority and the corporation,  
23 and all properties at any time owned by the authority and the corporation, are exempt from all  
24 taxation in the State of South Dakota. In addition, the corporation is exempt from all filing,

1 reporting, and similar requirements otherwise applicable to nonprofit and other corporations.

2 For purposes of chapter 47-31A and any amendment thereto and substitution therefor, bonds,  
3 notes, certificates, or other obligations issued, incurred or created by the corporation under this  
4 Act shall be deemed to be securities issued by a public instrumentality of the State of South  
5 Dakota.

6 Section 9. That chapter 5-12 be amended by adding thereto a NEW SECTION to read as  
7 follows:

8 The corporation may employ attorneys, accountants, tobacco industry consultants, and  
9 financial experts, managers, and such other employees and agents as may be necessary in its  
10 judgment and to fix their compensation.

11 Section 10. The permanent tobacco settlement development trust fund is hereby established  
12 in the state treasury as a special trust fund. That portion of the net proceeds of sale of tobacco  
13 settlement revenues which is derived from the net proceeds of bonds shall be deposited in the  
14 permanent tobacco settlement development trust fund. In addition, any residual interest in  
15 tobacco settlement revenues shall, upon receipt by the state, be deposited in the tobacco  
16 settlement residual fund. The principal of the permanent tobacco settlement development trust  
17 fund may not be expended except for costs and expenses incurred in investing or otherwise  
18 administering the permanent tobacco settlement development trust and its assets. The amounts  
19 in the permanent tobacco settlement development trust fund shall be state public funds within the  
20 meaning of chapter 4-4 and shall be invested in permitted investments and otherwise in  
21 accordance with §§ 4-5-23 and 4-5-26. All investment earnings from the permanent tobacco  
22 settlement development trust fund shall be transferred to and deposited in the tobacco  
23 development interest fund on a period basis no less frequently than annually.

24 Section 11. The tobacco settlement residual fund is established in the state treasury. The

1 amounts received by the state pursuant to any residual interest in tobacco settlement revenues  
2 shall, upon receipt, be transferred to and deposited in the tobacco settlement residual fund. The  
3 amounts in the tobacco settlement residual fund shall be state public funds within the meaning  
4 of chapter 4-4 and shall remain in such fund until appropriated by the Legislature. The amounts  
5 in the tobacco settlement residual fund shall be invested in permitted investments or otherwise  
6 in accordance with §§ 4-5-23 and 4-5-26.

7 Section 12. The tobacco development interest fund is established in the state treasury. The  
8 amounts in the tobacco development interest fund shall be state public funds within the meaning  
9 of chapter 4-4 and shall remain in the fund until appropriated by the Legislature. The amounts  
10 in the tobacco development interest fund shall be invested in permitted investments or otherwise  
11 in accordance with §§ 4-5-23 and 4-5-26.

12 If in order to obtain or preserve any exclusion of interest on bonds from gross income of the  
13 holders thereof for purposes of federal income taxation, the corporation or authority enters into  
14 any agreement or covenant with the holders of bonds (or the trustee or other fiduciary acting on  
15 behalf of or for the benefit of holders of bonds) that imposes restrictions or conditions on the  
16 investment, use, expenditure, or other application of the proceeds of bonds issued, incurred, or  
17 created under this Act, including any investment earnings thereon (whether while on deposit in  
18 the permanent tobacco settlement development trust fund, the tobacco development interest fund  
19 or otherwise), then the state and each agency, authority, or other body politic of the state or  
20 acting on behalf of the state, shall observe and fully honor each such agreement, covenant, or  
21 other restriction or condition with respect to investment, use, expenditure, or application thereof.  
22 The State of South Dakota pledges to and agrees with the holders of bonds issued, incurred, or  
23 created under this Act that the state will not invest, use, expend, or otherwise apply such  
24 proceeds of bonds and any other amounts so as to impair the terms of any such agreement or

1 covenant made by the corporation or authority with any such holders (or trustee or other  
2 fiduciary) or in any way impair the exemption or exclusion of interest on any such bonds from  
3 federal income taxation. The corporation and authority each may include these pledges and  
4 agreements of the state in any contract with the holders of bonds issued, incurred, or created  
5 under this Act.

6 Section 13. It is the intention of this Legislature that funds deposited in the tobacco  
7 development interest fund and the tobacco settlement residual fund be expended pursuant to  
8 separately enacted statutes which will implement development programs intended to provide for  
9 the health, welfare, and prosperity of the State of South Dakota and its residents. Any such  
10 development program shall be established by a separately enacted statute which makes express  
11 reference to this Act and the terms and conditions of such program shall be specified in such  
12 statute. Any such statute shall expressly incorporate any agreements, covenants, or restrictions  
13 described or referred to in or by sections 6 and 12 of this Act and any investment, use,  
14 expenditure, or other application of moneys described in section 12 of this Act shall be expressly  
15 subject to and in full compliance with the agreements, covenants, restrictions, and conditions  
16 imposed by the terms of section 12 of this Act.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

445E0642

## SENATE HEALTH AND HUMAN SERVICES

### COMMITTEE ENGROSSED NO. **SB 231** - 02/14/2001

**This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.**

Introduced by: Senators Reedy, Dennert, Duxbury, Ham, Hutmacher, Koetzle, McIntyre, Moore, Sutton (Dan), Symens, and Volesky and Representatives Nesselhuf, Bartling, Bradford, Burg, Davis, Elliott, Flowers, Hanson (Gary), Hargens, Lange, Monroe, Nachtigal, Olson (Mel), Peterson (Jim), Sigdestad, and Van Norman

1 FOR AN ACT ENTITLED, An Act to provide for the prompt payment of certain uncontested  
2 health care claims.

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

4 Section 1. That chapter 58-12 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 As used in this Act, the term, clean claim, means a claim for payment of health care expenses  
7 that is submitted to a health carrier on the carrier's standard claim form with all required fields  
8 completed with correct and complete information in accordance with the carrier's published filing  
9 requirements. The term, clean claim, does not include a claim for payment of expenses incurred  
10 during a period of time for which premiums are delinquent, except to the extent otherwise  
11 required by law.

12 Section 2. That chapter 58-12 be amended by adding thereto a NEW SECTION to read as



1 follows:

2 Every health carrier shall provide a copy of its filing requirements upon request to:

- 3 (1) Every enrollee or insured upon enrollment in the carrier's plan or upon issuance of the  
4 policy if applicable;
- 5 (2) Every enrollee or insured, upon request, within fifteen calendar days;
- 6 (3) Every participating provider upon acceptance of the provider into the carrier's  
7 network; and
- 8 (4) Every enrollee, insured, and participating provider within fifteen calendar days after  
9 any change in the standard form or the accompanying instructions or requirements if  
10 applicable.

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

13 Each clean claim shall be paid to the person entitled thereto, denied, or settled within thirty  
14 calendar days after receipt by the carrier if submitted electronically and within forty-five calendar  
15 days after receipt by the carrier. If the resolution of an otherwise clean claim requires additional  
16 information, the carrier shall, within thirty calendar days after receipt of the claim, give the  
17 provider, policyholder, insured, or patient, as appropriate, a full explanation of what additional  
18 information is needed. The person receiving a request for additional information shall submit all  
19 additional information requested by the carrier within thirty calendar days after receipt of such  
20 request.

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

23 Notwithstanding any provision of any indemnity or health policy or certificate to the  
24 contrary, if a provider fails to timely submit additional information requested under section 3 of

1 this Act, the health carrier may deny an otherwise clean claim or continue to process the claim  
2 beyond the time frames contained in section 3 of this Act.

3 Section 5. That chapter 58-12 be amended by adding thereto a NEW SECTION to read as  
4 follows:

5 Absent suspected fraud, all clean claims, except those described in section 3 of this Act shall  
6 be paid, denied, or settled within ninety calendar days after receipt by the carrier.

7 Section 5. That chapter 58-12 be amended by adding thereto a NEW SECTION to read as  
8 follows:

9 This Act applies to any health insurer or health maintenance organization that issues health  
10 insurance coverage pursuant to chapters 58-17A, 58-17B, 58-17, 58-18, 58-18B, 58-19, 58-  
11 37A, 58-38, 58-39, 58-40, and 58-41.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

400E0804

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **SB 239** - 02/15/2001

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

1 FOR AN ACT ENTITLED, An Act to establish the regents scholarship program and provide  
2 for its funding.

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

4 Section 1. That chapter 13-55 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 There is established the regents scholarship program to be administered by the Board of  
7 Regents. The Board of Regents may establish such policies and procedures as it deems necessary  
8 to carry out the purposes of this program. The purpose of the program is to allow South  
9 Dakota's most academically accomplished high school graduates to receive an affordable  
10 education at one of South Dakota's universities, colleges, or technical schools.

11 Section 2. In order to be eligible for a regents scholarship award, a student shall:

- 12 (1) Be a resident of South Dakota at the time of graduation from high school;  
13 (2) Meet the high school graduation requirements as provided in Board of Regents Policy  
14 2:3.2.F as in effect on January 25, 2001;  
15 (3) Attend one of the accredited universities, colleges, or technical institutes located in

1 South Dakota;

2 (4) Have obtained a high school cumulative grade point average of at least 3.0 on a 4.0  
3 scale, or the equivalent, through the junior year of high school, with no final grade  
4 below a "C";

5 (5) Enter into the program within one year of graduation from high school.

6 A student is eligible to participate in the regents scholarship program for the equivalent of  
7 four academic years or until the attainment of a baccalaureate or technical degree, whichever  
8 comes first.

9 Section 3. Scholarship payments shall be made on a semester-by-semester basis. The amount  
10 of award shall be as follows:

11 (1) One thousand five hundred dollars for the first year of attendance;

12 (2) Two thousand dollars for the second year of attendance;

13 (3) Two thousand five hundred dollars for the third year of attendance;

14 (4) Three thousand dollars for the fourth year of attendance.

15 The total amount of the scholarship may not exceed nine thousand dollars.

16 Section 4. In order to maintain eligibility, a student shall:

17 (1) Maintain a cumulative 3.0 grade point average on a 4.0 scale. Cumulative grade point  
18 average shall be calculated after the second semester and every semester thereafter.

19 The student shall complete consecutive spring and fall terms in order to remain  
20 eligible for continuation of the scholarship program from term to term. Once a  
21 student's cumulative grade point average falls below 3.0 on a 4.0 scale, the student  
22 permanently loses eligibility for continuation in the scholarship program;

23 (2) Complete fifteen credit hours of instruction per semester. The student must enroll in  
24 and complete at least fifteen credit hours of instruction in each consecutive spring and

1 fall term. If the executive director of the Board of Regents determines that a student's  
2 failure to enroll or to maintain continued enrollment occurred as a direct result of  
3 legitimate factors outside the student's control, or has resulted from the student's  
4 participation in an activity that in the executive director's judgment provides  
5 knowledge or experience that will enhance the student's academic pursuits, the  
6 executive director may extend the student's eligibility to participate in the program for  
7 up to two additional years, if the student does not enroll in a noneligible institution;

8 (3) Sit for and pass the college proficiency exam as required by Board of Regents Policy  
9 2.28 as in effect on October 6, 2000, at the end of the sophomore year. If the student  
10 fails to pass the proficiency exam the first time, eligibility is forfeited for continuation  
11 in the scholarship program;

12 (4) All eligible students shall certify not to use tobacco products for the entire term in  
13 which they will be participating in the regents scholarship. Failure to comply shall  
14 result in loss of eligibility.

15 Section 5. That § 10-50B-11 be amended to read as follows:

16 10-50B-11. The people's trust fund is established in the state treasury. Any money received  
17 from the Master Settlement Agreement signed on November 23, 1998, by attorneys general from  
18 several states and various tobacco companies shall be deposited in the people's trust fund. The  
19 principal in the trust fund may not be expended, except for dollars appropriated by the  
20 Legislature for the regents scholarship program. The fund shall be invested according to  
21 §§ 4-5-23 and 4-5-26. Interest earned on money in the fund shall be deposited in the people's  
22 interest fund created in § 10-50B-12.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

400E0803

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **SB 240** - 02/15/2001

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

1 FOR AN ACT ENTITLED, An Act to make an appropriation for the regents scholarship  
2 program.

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

4 Section 1. There is hereby transferred from the tobacco settlement interest fund to the  
5 general fund to be commingled with amounts on deposit therein the sum of one million seven  
6 hundred sixty-four thousand dollars (\$1,764,000), and an equal amount or so much thereof as  
7 may be necessary, is hereby appropriated from the general fund to the Board of Regents to  
8 provide funding for the regents scholarship program.

9 Section 2. The executive director of the Board of Regents shall approve vouchers and the  
10 state auditor shall draw warrants to pay expenditures authorized by this Act.

11 Section 3. Any amounts appropriated in this Act not lawfully expended or obligated by  
12 June 30, 2002, shall revert in accordance with § 4-8-21.

# 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.