

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

400H0069

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **SB 7** - 01/14/2002

Introduced by: The Committee on Legislative Procedure at the request of the Commissioner
of School and Public Lands

1 FOR AN ACT ENTITLED, An Act to provide for the leasing of certain public lands acquired
2 by exchange.

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

4 Section 1. That § 5-3-7 be amended to read as follows:

5 5-3-7. The commissioner of school and public lands may exchange, with the approval of the
6 Governor and following a public hearing, any school section or portion of a school section for
7 any land located within the State of South Dakota of like appraised value. The commissioner
8 may also exchange, with the approval of the Governor and following a public hearing, any school
9 section or portion of a school section for any land located within the State of South Dakota of
10 appraised value of at least seventy-five percent of the school land if the difference is paid in cash
11 at the time of the exchange. Such exchanges may be conditional as long as the transfer is
12 completed within two years and as long as the trust corpus is never diminished. Any cash
13 received from such an exchange shall be treated as a cash sale pursuant to the provisions of
14 chapter 5-9. Any unit of land acquired through such an exchange may be leased as a unit or



1 leased in separate parcels upon such terms and conditions as the commissioner, with the approval
2 of the Governor, deems to be in the best interests of the State of South Dakota. The
3 commissioner shall promulgate rules pursuant to chapter 1-26 to establish the procedures and
4 criteria for such exchanges.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

780H0154

SENATE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **SB 10** - 01/14/2002

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

1 FOR AN ACT ENTITLED, An Act to revise certain township election provisions.

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

3 Section 1. That § 8-1-23 be amended to read as follows:

4 8-1-23. Except as provided in § 8-1-28, ~~whenever~~ if fifteen percent of the registered voters
5 of any civil township, based upon the total number of registered voters at the last preceding
6 general election, petition the township clerk ~~therefor, such, the clerk, at the direction of the~~
7 board of supervisors, shall call an election. The election shall be called in the manner prescribed
8 by law for holding special township meetings, ~~at which election~~ and the question shall be
9 submitted, "Shall the civil township organization of _____ township be abolished?" "Yes." "No."
10 ~~Such~~ The election shall be held within sixty days of the filing of the petition and in the manner
11 ~~and under the regulations~~ provided by law for holding elections for the election of civil township
12 officers. ~~All voters at such election in favor of abolishing such township organization shall erase~~
13 ~~the word "No" from their ballots. All voters at such election who do not favor the abolishing of~~
14 ~~such township organization shall erase the word "Yes" from their ballots. The township clerk~~
15 shall provide a sufficient number of printed ~~or written~~ ballots for the proper conduct of ~~such the~~



1 election.

2 Section 2. That chapter 8-1 be amended by adding thereto a NEW SECTION to read as
3 follows:

4 No petition to abolish a township may be filed within one year following an election on the
5 question of abolishing the township.

6 Section 3. That § 8-3-7 be amended to read as follows:

7 8-3-7. No person may vote at any township meeting unless ~~he~~ the person is registered to vote
8 pursuant to chapter 12-4 and resides in the township. For the purposes of this section, a person
9 resides in the township if the person actually lives in the township for at least thirty consecutive
10 days each year, is a full-time postsecondary education student who resided in the township
11 immediately prior to leaving for the postsecondary education, or is on active duty as a member
12 of the armed forces whose home of record is within the township. A voter's qualification as a
13 resident may be challenged in the manner provided in § 12-18-10. No election may be contested
14 on the grounds that any nonresident was allowed to vote if the nonresident was not challenged
15 in the manner provided in § 12-18-10.

16 Section 4. That § 8-3-17.1 be amended to read as follows:

17 8-3-17.1. If nominating petitions are required pursuant to § 8-3-1.1, then any voter qualified
18 to vote in a township candidate election may vote by absentee ballot as prescribed in chapter
19 12-19. Absentee voting shall be allowed for any township ballot question election and shall be
20 conducted as prescribed in chapter 12-19.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

400H0241

SENATE JUDICIARY COMMITTEE ENGROSSED NO. **SB 19** - 01/14/2002

Introduced by: The Committee on Judiciary at the request of the Attorney General

1 FOR AN ACT ENTITLED, An Act to create the crime of communicating a terroristic threat or
2 hoax terroristic threat and to provide certain penalties therefor.

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

4 Section 1. Any person who intentionally communicates or causes to be communicated, either
5 directly or indirectly, orally, in writing, by mail, by use of a telephonic or telecommunication
6 device including electronic mail, internet communications, and facsimile communications,
7 through an electronic communication device, by leaving a substance or device, or by any other
8 means, a threat that a firearm, a dangerous weapon, an explosive or incendiary device, a
9 destructive device, a dangerous chemical or biological agent, a poison, a harmful radioactive
10 substance, or any other device, substance, or item capable of causing death, serious bodily injury,
11 or substantial property damage, will be used at a place or location, or is present or will be present
12 at a place or location, whether or not the same is in fact used or present, thereby causing either
13 the evacuation or serious disruption of a school, school-related event, school transportation,
14 dwelling, building, place of assembly, or facility of public transport, or serious public
15 inconvenience or alarm, is guilty of communicating a terroristic threat. A violation of this section



1 is a Class 4 felony.

2 Section 2. Any person who intentionally possesses, transports, uses, or places any hoax
3 substance or hoax destructive device with the intent of causing anxiety, unrest, fear, or personal
4 discomfort is guilty of a Class 5 felony. A hoax substance is any substance that would cause a
5 person to reasonably believe that it is a dangerous chemical or biological agent, a poison, a
6 harmful radioactive substance, or a similar substance. A hoax destructive device is any device
7 that would cause a person to reasonably believe that it is a dangerous explosive or incendiary
8 device or a similar destructive device.

9 Section 3. The court may, after conviction or adjudication of any violation of this Act,
10 conduct a hearing to ascertain the extent of costs incurred, damages and financial loss suffered
11 by local, county, or state public safety agencies, and the amount of property damage caused as
12 a result of the crime. A person found guilty of violating this Act may upon conviction, be ordered
13 to make restitution to the local, county, or state public service agency for any cost incurred,
14 damages and financial loss or property damage sustained as a result of the commission of the
15 crime.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

400H0245

SENATE JUDICIARY COMMITTEE ENGROSSED NO.

SB 22 - 01/14/2002

Introduced by: The Committee on Judiciary at the request of the Attorney General

1 FOR AN ACT ENTITLED, An Act to adopt the Uniform Rendition of Prisoners as Witnesses
2 in Criminal Proceedings Act.

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

4 Section 1. Terms used in this Act mean:

5 (1) "Witness," a person who is confined in a penal institution in any state and whose
6 testimony is desired in another state in any criminal proceeding or investigation by
7 grand jury or in any criminal action before a court;

8 (2) "Penal institution," includes any jail, prison, penitentiary, house of correction, or other
9 place of penal detention;

10 (3) "State," includes any state of the United States, the District of Columbia, the
11 Commonwealth of Puerto Rico, and any territory of the United States.

12 Section 2. Any judge of a state court of record in another state, which by its laws has made
13 provisions for commanding persons confined in penal institutions within that state to attend and
14 testify in this state, may certify:

15 (1) That there is a criminal proceeding or investigation by a grand jury or a criminal



1 action pending in a court;

2 (2) That a person who is confined in a penal institution in this state may be a material
3 witness in the proceeding, investigation, or action; and

4 (3) That the person's presence will be required during a specified time.

5 Upon presentation of the certificate to any judge having jurisdiction over the person
6 confined, and upon notice to the attorney general, the judge in this state shall fix a time and place
7 for a hearing and shall make an order directed to the person having custody of the prisoner
8 requiring that the prisoner be produced before the judge at the hearing.

9 Section 3. If at the hearing the judge determines:

10 (1) That the witness may be material and necessary;

11 (2) That the witness's attending and testifying are not adverse to the interests of this state
12 or to the health or legal rights of the witness;

13 (3) That the laws of the state in which the witness is required to testify will give the
14 witness protection from arrest and the service of civil and criminal process because
15 of any act committed prior to the witness's arrival in the state under the order; and

16 (4) That as a practical matter the possibility is negligible that the witness may be subject
17 to arrest or to the service of civil or criminal process in any state through which the
18 witness may pass;

19 the judge shall issue an order, with a copy of the certificate attached, directing the witness to
20 attend and testify, directing the person having custody of the witness to produce the witness in
21 the court where the criminal action is pending, or where the grand jury investigation is pending,
22 at a time and place specified in the order, and prescribing such conditions as the judge shall
23 determine.

24 Section 4. The order to the witness and to the person having custody of the witness shall

1 provide for the return of the witness at the conclusion of the witness's testimony, proper
2 safeguards on the witness's custody, and proper financial reimbursement or prepayment by the
3 requesting jurisdiction for all expenses incurred in the production and return of the witness, and
4 may prescribe such other conditions as the judge thinks proper or necessary. Mileage and
5 expenses shall be allowed as provided for state employees. The order does not become effective
6 until the judge of the state requesting the witness enters an order directing compliance with the
7 conditions prescribed.

8 Section 5. This Act does not apply to any person in this state confined as mentally ill or under
9 sentence of death.

10 Section 6. If a person confined in a penal institution in any other state may be a material
11 witness in a criminal action pending in a court of record or in a grand jury investigation in this
12 state, a circuit court judge or magistrate may certify:

- 13 (1) That there is a criminal proceeding or investigation by a grand jury or a criminal
14 action pending in this court;
- 15 (2) That a person who is confined in a penal institution in the other state may be a
16 material witness in the proceeding, investigation, or action; and
- 17 (3) That the person's presence will be required during a specified time.

18 The certificate shall be presented to a judge of a court of record in the other state having
19 jurisdiction over the prisoner confined, and a notice shall be given to the attorney general of the
20 state in which the prisoner is confined.

21 Section 7. The court may enter an order directing compliance with the terms and conditions
22 prescribed by the judge of the state in which the witness is confined.

23 Section 8. If a witness from another state comes into or passes through this state under an
24 order directing the witness to attend and testify in this or another state, the witness is not subject,

1 while in this state pursuant to the order, to arrest or the service of process, civil or criminal,
2 because of any act committed prior to this arrival in this state under the order.

3 Section 9. The provisions of this Act shall be so construed as to effectuate their general
4 purpose to make uniform the law of those states which enact them.

5 Section 10. This Act may be cited as the Uniform Rendition of Prisoners as Witnesses in
6 Criminal Proceedings Act.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

400H0284

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **SB 43** - 01/14/2002

Introduced by: The Committee on State Affairs at the request of the Department of Game,
Fish and Parks

1 FOR AN ACT ENTITLED, An Act to permit the recording of certain deeds to or from the State
2 of South Dakota without platting.

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

4 Section 1. That chapter 43-30 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any conveyance of property to or by South Dakota or any of its political subdivisions
7 obtained from the United States of America, acting by and through the Secretary of the Army,
8 pursuant to and under authority of title VI of the Water Resources Development Act of 1999
9 (Public Law 106-53) as amended by the Water Resources Development Act of 2000 (Public Law
10 106-541), or any portion thereof, that is described by individual or cumulative metes and bounds
11 descriptions or that is described by points of beginning and termination, water or contour
12 elevations, federal engineering survey references, maps, highways, and other rights-of-way is
13 exempt from the provisions of chapter 11-3 and chapter 43-21, provided the description contains
14 references to the affected section, township, and range. The grantee shall furnish, if available, any



1 copies of federal engineering survey references, maps, rights-of-way, and other documents
2 describing conveyances of the property to or by South Dakota or any of its political subdivisions
3 to the director of equalization in each county wherein the conveyances are filed. The exemption
4 contained in this section does not apply to any conveyance of property title to private ownership.