

Senate Daily Reader

Tuesday, February 05, 2002

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State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

872H0466

HOUSE ENGROSSED NO. **HB 1131** - 01/24/2002

Introduced by: Representatives Michels, Abdallah, Flowers, Juhnke, Monroe, Olson (Mel),
and Sutton (Duane) and Senators McCracken, Bogue, Daugaard, and Moore

1 FOR AN ACT ENTITLED, An Act to provide for civil recovery of unpaid property and
2 services.

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

4 Section 1. That chapter 22-30A be amended by adding thereto a NEW SECTION to read
5 as follows:

6 The owner of a motor vehicle that receives motor fuel that was not paid for is liable to the
7 motor fuel retailer for the cost of the motor fuel received. In addition, the motor fuel retailer may
8 impose a maximum service charge of thirty dollars for collection costs if the service charge was
9 conspicuously displayed on the premises where the motor fuel was received.

10 Section 2. That chapter 22-30A be amended by adding thereto a NEW SECTION to read
11 as follows:

12 If a motor fuel retailer records the license plate number of the motor vehicle that receives
13 motor fuel that was not paid for, the retailer may contact any law enforcement officer and
14 provide the license plate number in writing and the law enforcement officer shall provide the
15 motor vehicle owner's address, recorded pursuant to § 32-5-3, in order for the retailer to mail



1 a notice and demand of payment for motor fuel.

2 Section 3. That chapter 22-30A be amended by adding thereto a NEW SECTION to read
3 as follows:

4 The notice and demand of payment for motor fuel shall include the name, address, and license
5 plate number of the motor vehicle owner; the date the act occurred; the unpaid dollar amount;
6 the service charge; the type of motor fuel; a citation of sections 1 and 4 of this Act; and the
7 employee's signature. An affidavit of service by mailing shall be retained by the motor fuel
8 retailer.

9 Section 4. That chapter 22-30A be amended by adding thereto a NEW SECTION to read
10 as follows:

11 If the motor fuel retailer does not receive payment within thirty-three days after mailing the
12 notice and demand for payment for motor fuel, the vehicle owner is also liable for a civil penalty
13 of one hundred dollars, or the price of the unpaid motor fuel, whichever is greater.

14 Section 5. That chapter 22-30A be amended by adding thereto a NEW SECTION to read
15 as follows:

16 The motor vehicle owner may dispute the motor fuel retailer's claim by sending written notice
17 to the retailer during the thirty-three day period in section 4 of this Act. The retailer shall cease
18 all collection efforts upon receipt of the notice. The retailer may collect the price of the motor
19 fuel, the service charge, and the civil penalty only pursuant to a judgement from a court of law.

20 Section 6. That chapter 22-30A be amended by adding thereto a NEW SECTION to read
21 as follows:

22 Any person who obtains property or services from a hotel or restaurant without paying for
23 it is liable to the retailer for the cost of the property or service. In addition, the retailer may
24 impose a maximum service charge of thirty dollars for collection costs if the service charge was

1 conspicuously displayed on the premises.

2 Section 7. That chapter 22-30A be amended by adding thereto a NEW SECTION to read
3 as follows:

4 If the retailer records the motor vehicle license plate number of the person who obtained
5 property or services without paying, the retailer may contact any law enforcement officer and
6 provide the license plate number in writing and the law enforcement officer shall provide the
7 motor vehicle owner's address, recorded pursuant to § 32-5-3, in order for the retailer to mail
8 a notice and demand of payment for property or services.

9 Section 8. That chapter 22-30A be amended by adding thereto a NEW SECTION to read
10 as follows:

11 The notice and demand of payment for property or services shall include the name, address,
12 and license plate number of the motor vehicle owner; the date the act occurred; the unpaid dollar
13 amount; the service charge; a citation of sections 6 and 9 of this Act; and the employee's
14 signature. An affidavit of service by mailing shall be retained by the retailer.

15 Section 9. That chapter 22-30A be amended by adding thereto a NEW SECTION to read
16 as follows:

17 If the retailer does not receive payment within thirty-three days after mailing the notice and
18 demand for payment for property or services, the vehicle owner is also liable for a civil penalty
19 of one hundred dollars, or the price of the unpaid property or services, whichever is greater.

20 Section 10. That chapter 22-30A be amended by adding thereto a NEW SECTION to read
21 as follows:

22 Any person may dispute the retailer's claim by sending written notice to the retailer during
23 the thirty-three day period in section 9 of this Act. The retailer shall cease all collection efforts
24 upon receipt of the notice. The retailer may collect the price of the property or service, the

1 service charge, and the civil penalty only pursuant to a judgment from a court of law.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

169H0481

SENATE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1138 - 02/01/2002

Introduced by: Representatives Olson (Mel), Abdallah, Burg, Hargens, Madsen, Michels, Peterson (Bill), and Sebert and Senators Olson (Ed), Daugaard, de Hueck, Hutmacher, and Moore

1 FOR AN ACT ENTITLED, An Act to increase the penalty for the stalking of certain children.

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

3 Section 1. That § 22-19A-7 be amended to read as follows:

4 22-19A-7. Any person who willfully, maliciously, and repeatedly follows or harasses a child
5 twelve years of age or younger or who makes a credible threat to a child twelve years of age or
6 younger with the intent to place that child in reasonable fear of death or great bodily injury or
7 with the intent to cause the child to reasonably fear for the child's safety is guilty of the crime of
8 felony stalking. ~~Stalking~~ Felonious stalking is a ~~Class 1 misdemeanor~~ Class 6 felony.



State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

184H0609

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1224 - 01/26/2002

Introduced by: Representatives Hunhoff, Abdallah, Murschel, and Pitts and Senators Daugaard, Craddock, Hutmacher, Madden, and Moore

1 FOR AN ACT ENTITLED, An Act to prohibit interference with the use of communication
2 devices to summon aid to an emergency.

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

4 Section 1. Terms used in this Act mean:

5 (1) "Communication device," any device, including a telephone, cellular telephone,
6 computer, or radio which may be used in an attempt to summon law enforcement, fire
7 department, medical, or other emergency personnel;

8 (2) "Emergency," any situation in which human health or safety is in imminent danger.

9 Section 2. If a person is attempting to summon aid to an emergency or has communicated
10 a desire to summon aid to an emergency, no person may prohibit or interrupt, or attempt to
11 prohibit or interrupt, another person's use of a communication device by either of the following:

12 (1) Using or threatening to use physical force, intimidation, interference, or any other
13 form of violence; or

14 (2) Destroying, disabling, or damaging a communication device.



1 A violation of this section is a Class 1 misdemeanor.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

654H0654

HOUSE HEALTH AND HUMAN SERVICES
COMMITTEE ENGROSSED NO. **HB 1241** -
01/25/2002

Introduced by: Representatives Brown (Jarvis), Bartling, Broderick, Davis, Hargens, McCaulley, Murschel, Peterson (Jim), Van Etten, and Van Gerpen and Senators Drake, Moore, and Putnam

1 FOR AN ACT ENTITLED, An Act to provide a time limit for filing an application for county
2 welfare assistance for hospital expenses by or on behalf of a medically indigent person.

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

4 Section 1. That § 28-13-32.3 be amended to read as follows:

5 28-13-32.3. To receive assistance under this chapter for the costs of hospitalization, a person
6 must be medically indigent as defined in § 28-13-1.3. The person or someone acting on behalf
7 of the person shall apply to the person's county of residence for assistance within two years of
8 the date of the hospital's discharge of the person.



State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

400H0231

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **SB 14** - 02/01/2002

Introduced by: The Committee on State Affairs at the request of the Department of Human Services

1 FOR AN ACT ENTITLED, An Act to revise certain requirements and responsibilities of the
2 administrator of the Human Services Center.

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

4 Section 1. That § 27A-4-3 be amended to read as follows:

5 27A-4-3. The secretary of human services shall appoint an administrator of the South Dakota
6 Human Services Center who shall be a skilled administrator or a South Dakota licensed physician
7 of accepted skill and ability. ~~Such person must have had experience of at least five years either~~
8 The person shall have a degree or extensive experience in public or private institutions for the
9 mentally ill administration, including experience in a mental health setting and shall be of a good
10 moral character. The administrator shall be the chief executive officer of the South Dakota
11 Human Services Center. The administrator shall serve at the pleasure of the secretary of human
12 services.

13 Section 2. That § 23A-27A-22 be amended to read as follows:

14 23A-27A-22. If a defendant confined under sentence of death appears to be mentally



1 incompetent to proceed, the warden having ~~him in~~ custody of the defendant shall forthwith notify
2 the Governor, who shall appoint a commission of not less than three nor more than five
3 disinterested duly licensed physicians, one of whom shall be the ~~superintendent~~ medical director
4 of the Human Services Center or ~~his assistant~~ the director's designee, to examine the defendant
5 and report to the Governor as to ~~his~~ the defendant's mental condition at the time of the
6 examination.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

400H0210

SENATE COMMERCE COMMITTEE ENGROSSED NO.

SB 29 - 02/01/2002

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

1 FOR AN ACT ENTITLED, An Act to revise certain fees for special inspections and examination
2 of certain weighing and measuring devices and certain standards and testing equipment.

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

4 Section 1. That § 37-21-9.1 be amended to read as follows:

5 37-21-9.1. The Division of Commercial Inspection and Regulation shall charge and collect
6 a maximum ten dollar fee for each inspection and testing of any weight, measure, and weighing
7 and measuring device. The fee shall be paid upon demand of the division by the person, firm, or
8 corporation owning or operating the weight, measure, or weighing or measuring device
9 inspected or tested. ~~However, a~~ A maximum fee of five dollars shall be charged and collected
10 for each inspection and testing of gasoline and diesel stationary fuel pump meters. A maximum
11 fee of fifteen dollars shall be charged and collected for each inspection and testing of gasoline
12 and diesel high speed stationary fuel pump meters. A maximum fee of fifteen dollars shall be
13 collected for refined fuel truck meters. If a special or emergency inspection is requested, a
14 charge, ~~based on travel time and expense~~ not to exceed the actual cost of such inspection,



1 including costs for personnel, equipment, and mileage, shall be made and assessed against the
2 requesting individual or device owner. ~~Such fee may not exceed twenty dollars per hour, in~~
3 ~~addition to a fee of forty cents per mile.~~ All fees, except those for special or emergency
4 inspection, shall be promulgated by the secretary of commerce and regulation pursuant to
5 chapter 1-26.

6 Section 2. That § 37-21A-7 be amended to read as follows:

7 37-21A-7. A registered serviceman and a registered service agency shall submit, annually to
8 the director, for ~~his~~ examination and certification, any standards and testing equipment that are
9 used, or are to be used, in the performance of the service and testing functions with respect to
10 weighing and measuring devices for which competence is registered. No registered ~~serviceman~~
11 service person or agency may use in servicing any commercial weighing or measuring device any
12 standards or testing equipment that have not been certified by the director. The Department of
13 Commerce and Regulation shall charge a fee not to exceed the actual cost of such inspection,
14 including costs for personnel, equipment, and mileage.

15 Section 3. That § 37-22-10 be amended to read as follows:

16 37-22-10. The Division of Commercial Inspection and Regulation shall charge and collect
17 a fee for each inspection or testing of scales. The fee shall be paid upon demand of the division
18 by the person, firm, or corporation owning or operating the scale inspected or tested. The
19 maximum schedule of fees is as follows:

- 20 (1) Up to and including 2,000 pounds capacity -- fifteen dollars;
- 21 (2) 2,001 to 5,000 pounds capacity, inclusive -- twenty-five dollars;
- 22 (3) 5,001 to 40,000 pounds capacity, inclusive -- sixty dollars;
- 23 (4) Over 40,000 pounds capacity -- seventy-five dollars;
- 24 (5) All livestock scales -- one hundred dollars.

1 If a special or emergency inspection is requested, a charge, ~~based on travel time and expense~~
2 not to exceed the actual cost of such inspection, including costs for personnel, equipment, and
3 mileage, shall be made and assessed against the requesting individual or device owner. ~~The fee~~
4 ~~may not exceed twenty dollars per hour, in addition to a fee of forty cents per mile. The fees shall~~
5 ~~be promulgated by the secretary of commerce and regulation pursuant to chapter 1-26.~~

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

580H0122

SENATE COMMERCE COMMITTEE ENGROSSED NO.

SB 108 - 02/01/2002

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

Introduced by: Senators Sutton (Dan), Brown (Arnold), Diedrich (Elmer), Hutmacher, McIntyre, Reedy, and Symens and Representatives Garnos, Bartling, Pitts, Slaughter, and Teupel

1 FOR AN ACT ENTITLED, An Act to require the acceptance of certain uniform life insurance
2 and annuity request forms.

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

4 Section 1. That chapter 58-15 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 If a policyholder has made a request to cash surrender, to obtain maximum policy loans, or
7 to make an Internal Revenue Code Section 1035 exchange under a life insurance or an annuity
8 policy, the insurer shall forward to the policyholder or the policyholder's insurance producer,
9 within thirty calendar days of receiving the request for the form, any required form to accomplish
10 such transaction. If the insurer does not do so, the policyholder may utilize a uniform life
11 insurance or annuity form for such purpose. The director shall adopt the uniform life insurance
12 and annuity forms by rules promulgated pursuant to chapter 1-26. If the insurer has failed to
13 submit its form to the policyholder or the policyholder's insurance producer within the time



- 1 period required by this section, the insurer shall accept the uniform form as adopted by the
- 2 director and may not require the use of any additional form.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

372H0606

SENATE AGRICULTURE AND NATURAL RESOURCES COMMITTEE ENGROSSED NO. **SB 130** - 01/31/2002

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

Introduced by: Senators Bogue, Craddock, Duxbury, Everist, Kleven, Koskan, Madden, McCracken, Putnam, and Vitter and Representatives Rhoden, Juhnke, Klaudt, Lintz, Madsen, McCaulley, Pederson (Gordon), Pummel, and Teupel

1 FOR AN ACT ENTITLED, An Act to prohibit the implementation of certain prairie dog
2 management plans or activities without legislative approval.

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

4 Section 1. The Department of Game, Fish and Parks and the Department of Agriculture are
5 directed to develop a state prairie dog management plan. The plan shall formulate state
6 management actions that will serve to prevent the prairie dog from being listed as a federal
7 threatened species. If such plan or any agreement adopted pursuant to such plan contains
8 provisions for incentive payments to private landowners for managing prairie dog habitat or
9 restricts private landowner rights to use rodenticides or to use any other means of controlling
10 prairie dogs on their property, the plan or any agreement adopted pursuant to such plan shall be
11 submitted to the South Dakota Legislature, in bill form, for approval or rejection, prior to it
12 becoming effective.

13 Section 2. Nothing contained in this Act precludes the Department of Game, Fish and Parks



1 or Department of Agriculture from performing their respective management responsibilities.
2 However, to the extent that the provisions of §§ 40-36-1, 40-36-9, and 34A-8-7 pertain to
3 prairie dogs, the provisions of section 1 of this Act supersede any contradictory provision of such
4 statutes.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

494H0464

SENATE TAXATION COMMITTEE ENGROSSED NO.

SB 133 - 02/01/2002

Introduced by: Senators Diedrich (Larry), Albers, Brosz, Daugaard, de Hueck, Dennert, Diedrich (Elmer), Duxbury, Greenfield, Hutmacher, Koetzle, Koskan, McCracken, McIntyre, Moore, Munson, Olson (Ed), Putnam, Sutton (Dan), Symens, and Vitter and Representatives Jaspers, Begalka, Broderick, Burg, Derby, Flowers, Frost, Fryslie, Gillespie, Glenski, Hansen (Tom), Hanson (Gary), Hargens, Holbeck, Hundstad, Hunhoff, Jensen, Juhnke, Klaudt, Kooistra, Lange, Nachtigal, Olson (Mel), Peterson (Jim), Pitts, Sebert, Sigdestad, Slaughter, Smidt, Sutton (Duane), Valandra, Van Gerpen, and Wick

1 FOR AN ACT ENTITLED, An Act to revise the distribution of revenue from the petroleum
2 release compensation and tank inspection fee.

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

4 Section 1. That § 34A-13-20 be amended to read as follows:

5 34A-13-20. A petroleum release compensation and tank inspection fee is imposed upon any
6 petroleum products upon which the fuel excise tax is imposed by §§ 10-47B-5 to 10-47B-10,
7 inclusive, and 10-47B-13. None of the exemptions from fuel excise tax allowed in § 10-47B-19
8 shall apply to this fee. The parties required to pay the fuel excise tax under the provisions of
9 §§ 10-47B-21 to 10-47B-26, inclusive, and 10-47B-29 and 10-47B-31 are liable for payment of
10 the petroleum release and tank inspection fee. In cases where the fuel is exempt from the fuel
11 excise tax under the provisions of subdivisions 10-47B-19(1), (3), and (5), the supplier shall pay



1 the fee. Responsibility for payment of the fee ceases if the petroleum product is sold and
2 delivered by a licensed exporter outside of the state. The amount of the fee imposed is twenty
3 dollars per one thousand gallons of petroleum. ~~Beginning on January 1, 2003, the fee is ten~~
4 ~~dollars per one thousand gallons of petroleum. The~~ Beginning January 1, 2003, fifty percent of
5 the revenue collected pursuant to this section shall be deposited monthly in the ethanol fuel fund
6 and fifty percent of the revenue collected pursuant to this section shall be distributed monthly in
7 the following manner:

- 8 (1) ~~During fiscal year 1999, forty-two percent shall be deposited in the state capital~~
9 ~~construction fund created in § 5-27-1. Beginning in fiscal year 2000 to December 31,~~
10 ~~2002, inclusive, fifty percent shall be deposited in the state capital construction fund~~
11 ~~created in § 5-27-1. Beginning on January 1, 2003, seventy-eight and seven-tenths~~
12 ~~percent shall be deposited in the state capital construction fund; and~~
- 13 (2) ~~During fiscal year 1999, fifty-eight percent shall be deposited into the petroleum~~
14 ~~release compensation fund. Beginning in fiscal year 2000 to December 31, 2002,~~
15 ~~inclusive, fifty percent shall be deposited in the petroleum release compensation fund.~~
16 ~~Beginning on January 1, 2003, twenty-one and three-tenths percent shall be deposited~~
17 ~~in the petroleum release compensation fund.~~

18 Section 2. That § 10-47B-162 be amended to read as follows:

19 10-47B-162. A production incentive payment of twenty cents per gallon is available to
20 ethanol producers for ethyl alcohol which is fully distilled and produced in South Dakota. To be
21 eligible for this payment, the ethyl alcohol shall be denatured and subsequently blended with
22 gasoline to create ethanol blend. The ethyl alcohol shall be ninety-nine percent pure and shall be
23 distilled from cereal grains. Annual production incentive payments for any facility may not
24 exceed one million dollars. No facility may receive any production incentive payments in an

1 amount greater than ten million dollars. The cumulative annual production incentive payments
2 made under this section may not exceed ~~an amount which has been appropriated by the~~
3 ~~Legislature for this purpose and has been deposited into the ethanol fuel fund in the state treasury~~
4 seven million dollars. Payments from the ethanol fuel fund shall be made on a first in time basis
5 until the fiscal year appropriation is reached. During the month when the appropriation limit is
6 to be reached, all claims received by month end shall be reimbursed proportionately on a pro-rata
7 basis for each gallon claimed.

8 Section 3. That § 10-47B-164 be amended to read as follows:

9 10-47B-164. Any money in the ethanol fuel fund is continuously appropriated for purposes
10 of providing ethanol production payments to qualified ethanol producers. The department may
11 receive and approve ethanol production incentive payment claims and authorize the issuance of
12 payment warrants to licensed ethanol producer claimants based on claims presented by the
13 licensees. At the end of each fiscal year, any unobligated cash in excess of one hundred thousand
14 dollars in the ethanol fuel fund shall be transferred to the state ~~capital construction~~ highway fund.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

463H0546

SENATE COMMERCE COMMITTEE ENGROSSED NO.

SB 136 - 02/01/2002

Introduced by: Senators Cradduck, Bogue, Brosz, Drake, Greenfield, Hutmacher, McCracken, Putnam, and Whiting and Representatives Sebert, Abdallah, Broderick, Brown (Jarvis), Duniphan, Hansen (Tom), Hunhoff, McCaulley, Pummel, Richter, Solum, and Sutton (Duane)

1 FOR AN ACT ENTITLED, An Act to allow state chartered banks to expand their investment
2 options to include certain annuities.

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

4 Section 1. That § 51A-4-25 be amended to read as follows:

5 51A-4-25. A bank may purchase for its own account investment securities and registered
6 mutual funds that invest exclusively in securities of the United States or its agencies and annuities
7 as defined in section 2 of this Act under such limits and restrictions as the commission may by
8 ~~rule~~ prescribe by rule, promulgated pursuant to chapter 1-26. In no event may the total amount
9 of the investment securities of any one obligor or maker held by the bank for its own account
10 exceed twenty percent of the capital stock and surplus and ten percent of the undivided profits
11 of such bank except as provided in §§ 51A-4-26 and 51A-4-31 to 51A-4-41, inclusive.

12 Section 2. That chapter 51A-4 be amended by adding thereto a NEW SECTION to read as
13 follows:



1 For the purposes of § 51A-4-25, an annuity is an investment that credits interest from the
2 inception of the contract, has an interest guarantee period that may be from thirty days to one
3 year in length, and is backed by the assets of the insurer. The insurer shall be rated in the top
4 three categories of both Standard and Poor's Corporation and Moody's Investors Service. The
5 annuity shall be fully liquid and may not be subject to any surrender charges or any other
6 restrictions on redemptions.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

445H0124

SENATE HEALTH AND HUMAN SERVICES COMMITTEE ENGROSSED NO. **SB 152** - 01/28/2002

Introduced by: Senators Sutton (Dan), Diedrich (Larry), Diedrich (Elmer), Greenfield, Hutmacher, McIntyre, Munson, Staggers, Symens, and Whiting and Representatives Monroe, Bartling, Broderick, Garnos, Heineman, Olson (Mel), Pederson (Gordon), Sebert, and Slaughter

1 FOR AN ACT ENTITLED, An Act to allow the offer of an individual health benefit plan
2 without certain mandates.

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

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

6 An insurer may offer an individual health benefit plan that does not meet the minimum
7 requirements of any or all of the following sections: §§ 58-17-1.1, 58-17-1.2, 58-17-30.5, 58-17-
8 62, 58-17-84.1, 58-17-98, and 58-17-107. The offer of rejection shall be contained in a separate
9 disclosure document approved by the director.



State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

400H0721

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **SB 182** - 02/01/2002

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

1 FOR AN ACT ENTITLED, An Act to revise the procedures for opting out of the property tax
2 freeze.

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

4 Section 1. That § 10-12-43 be amended to read as follows:

5 10-12-43. The governing body of the school district may raise additional revenues for general
6 fund purposes only, from property tax through the imposition of an excess tax levy. The
7 governing body of a school district may impose the excess tax levy with an affirmative two-thirds
8 vote of the governing body on or before July fifteenth of the year prior to the year the taxes are
9 payable. The governing body of the taxing district shall specify in the resolution the year or
10 number of years the excess tax levy will be applied. No excess levy may be imposed for a period
11 longer than five years unless the governing body again complies with the provisions of § 10-12-
12 43.

13 The requirements for an announcement made pursuant to this section are as follows:

14 (1) The decision of the governing body to originally impose or subsequently increase an
15 excess tax levy shall be first published within ten days of the decision;



1 (2) Publication shall be made at least twice in the legal newspaper pursuant
2 to § 13-8-10, with no fewer than five days between publication dates, before the opt
3 out takes effect;

4 (3) The announcement shall be at least one-fourth of a page in size;

5 (4) The announcement shall be headed with the following statement in capital letters and
6 in a typeface no less than one-half inch or thirty-six point type: "ATTENTION
7 TAXPAYERS: NOTICE OF PROPERTY TAX INCREASE OF \$(fill in amount)."

8 The remainder of the announcement shall consist of a reproduction of the "Resolution
9 for Opt Out," including the amount that property taxes will be increased annually by
10 the proposed opt out and a statement of the right to refer the decision of the board
11 to a vote of the people as provided in this section. The secretary of revenue, in rules
12 promulgated pursuant to chapter 1-26, shall prescribe a uniform form to be used by
13 the school district for notification of taxpayers as required by this section.

14 The opt out decision may be referred to a vote of the people upon a petition signed by at
15 least five percent of the registered voters in the school district and filed with the governing body
16 within twenty days of the first publication of the decision. The referendum election shall be held
17 on or before October first of the year prior to the time the taxes are payable.

18 The governing body of the school district may rescind an opt out decision by a majority vote
19 of the governing body of the school district.

20 The amount originally imposed or subsequently increased by the school district may be
21 rescinded by the taxpayers if a vote is initiated. The petition to initiate to rescind the opt out shall
22 be signed by at least five percent of the registered voters in the school district and filed with the
23 governing body no later than July fifteenth in the year prior to the year the taxes are payable. The
24 election shall be held on or before October first preceding the year the taxes are payable. The

1 excess levy is rescinded if approved by an affirmative vote of a majority of the votes cast in the
2 taxing district.

3 Any petition filed January first or after does not affect taxes payable that year.

4 Section 2. That § 10-13-36 be amended to read as follows:

5 10-13-36. The governing body of a taxing district may exceed the limit pursuant to
6 § 10-13-35 through the imposition of an excess tax levy. The governing body of a taxing district
7 may impose an excess tax levy with an affirmative two-thirds vote of the governing body on or
8 before July fifteenth of the year prior to the year the taxes are payable. The governing body of
9 the taxing district shall specify in the resolution the year or number of years the excess tax levy
10 will be applied. No excess levy may be imposed for a period longer than five years unless the
11 governing body again complies with the provisions of § 10-13-36.

12 The requirements for an announcement made pursuant to this section are as follows:

13 (1) The decision of the governing body to originally impose or subsequently increase an
14 excess tax levy shall be published within ten days of the decision;

15 (2) Publication shall be made at least twice in the legal newspaper designated by the
16 governing body pursuant to law, with no fewer than five days between publication
17 dates, before the opt out takes effect;

18 (3) The announcement shall be at least one-fourth of a page in size;

19 (4) The announcement shall be headed with the following statement in capital letters and
20 in a typeface no less than one-half inch or thirty-six point type: "ATTENTION
21 TAXPAYERS: NOTICE OF PROPERTY TAX INCREASE OF \$(fill in amount)."

22 The remainder of the announcement shall consist of a reproduction of the "Resolution
23 for Opt Out," including the amount that property taxes will be increased annually by
24 the proposed opt out and a statement of the right to refer the decision of the board

1 to a vote of the people as provided in this section. The secretary of revenue, in rules
2 promulgated pursuant to chapter 1-26, shall prescribe a uniform form to be used by
3 the taxing district for notification of taxpayers as required by this section.

4 The opt out decision may be referred to a vote of the people upon a petition signed by at
5 least five percent of the registered voters in the taxing district and filed with the respective
6 governing body within twenty days of the first publication of the decision. The referendum
7 election shall be held on or before October first preceding the year the taxes are payable. The
8 taxing districts may not exceed the levy limits provided in chapter 10-12 except for the
9 provisions in § 10-12-36.

10 The governing body of the taxing district may rescind an opt out decision by a majority vote
11 of the governing body of the taxing district.

12 The amount originally imposed or subsequently increased by the taxing district may be
13 rescinded by the taxpayers if a vote is initiated. The petition to initiate to rescind the opt out shall
14 be signed by at least five percent of the registered voters in the taxing district and filed with the
15 governing body no later than July fifteenth in the year prior to the year the taxes are payable. The
16 election shall be held on or before October first preceding the year the taxes are payable. The
17 excess levy is rescinded if approved by an affirmative vote of a majority of the votes cast in the
18 taxing district.

19 Any petition filed January first or after does not affect taxes payable that year.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

400H0712

SENATE APPROPRIATIONS COMMITTEE

ENGROSSED NO. **SB 185** - 02/01/2002

Introduced by: The Committee on Appropriations at the request of the Governor

1 FOR AN ACT ENTITLED, An Act to make an appropriation to fund tax refunds for elderly and
2 disabled persons and to revise the income eligibility requirements for property tax and sales
3 tax refunds.

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

5 Section 1. There is hereby appropriated from the general fund the sum of one million dollars
6 (\$1,000,000), or so much thereof as may be necessary, to the Department of Revenue to provide
7 refunds for real property tax and sales tax to elderly and disabled persons pursuant chapters 10-
8 18A and 10-45A. An amount not to exceed ten thousand dollars (\$10,000) in fiscal year 2003
9 may be used for the administrative costs of this Act.

10 Section 2. The secretary of revenue shall approve vouchers and the state auditor shall draw
11 warrants to pay expenditures authorized by this Act.

12 Section 3. Any amounts appropriated in this Act not lawfully expended or obligated by
13 June 30, 2003, shall revert in accordance with § 4-8-21.

14 Section 4. That § 10-18A-5 be amended to read as follows:

15 10-18A-5. The amount of refund of real property taxes due or paid for a single-member



1 household made pursuant to this chapter shall be according to the following schedule:

2	If household income is		The refund of real
3	more than: but less than		property taxes due
4	or paid shall be		
5	\$ 0	\$3,250 <u>\$3,500</u>	35%
6	3,251 <u>3,501</u>	3,510 <u>3,760</u>	34%
7	3,511 <u>3,761</u>	3,770 <u>4,020</u>	33%
8	3,771 <u>4,021</u>	4,030 <u>4,280</u>	32%
9	4,031 <u>4,281</u>	4,290 <u>4,540</u>	31%
10	4,291 <u>4,451</u>	4,550 <u>4,800</u>	30%
11	4,551 <u>4,801</u>	4,810 <u>5,060</u>	29%
12	4,811 <u>5,061</u>	5,070 <u>5,320</u>	28%
13	5,071 <u>5,321</u>	5,330 <u>5,580</u>	27%
14	5,531 <u>5,581</u>	5,590 <u>5,840</u>	26%
15	5,591 <u>5,841</u>	5,850 <u>6,100</u>	25%
16	5,851 <u>6,101</u>	6,110 <u>6,360</u>	24%
17	6,111 <u>6,361</u>	6,370 <u>6,620</u>	23%
18	6,371 <u>6,621</u>	6,630 <u>6,880</u>	22%
19	6,631 <u>6,881</u>	6,890 <u>7,140</u>	21%
20	6,891 <u>7,141</u>	7,150 <u>7,400</u>	20%
21	7,151 <u>7,401</u>	7,410 <u>7,660</u>	19%
22	7,411 <u>7,661</u>	7,670 <u>7,920</u>	18%
23	7,671 <u>7,921</u>	7,930 <u>8,180</u>	17%
24	7,931 <u>8,181</u>	8,190 <u>8,440</u>	16%
25	8,191 <u>8,441</u>	8,450 <u>8,700</u>	15%
26	8,451 <u>8,701</u>	8,710 <u>8,960</u>	14%
27	8,711 <u>8,961</u>	8,970 <u>9,220</u>	13%
28	8,971 <u>9,221</u>	9,230 <u>9,480</u>	12%
29	9,231 <u>9,481</u>	9,500 <u>9,750</u>	11%

1 over ~~9,500~~ 9,750 No refund

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

3 10-18A-6. The amount of refund of real property taxes due or paid for a multiple-member
4 household made pursuant to this chapter shall be according to the following schedule:

5 6	If household income is	The refund of real property taxes due or paid shall be	
7	at least:	but not more than	
8	\$ 0	\$6,000 <u>\$6,250</u>	55%
9	6,001 <u>6,251</u>	6,361 <u>6,611</u>	53%
10	6,362 <u>6,612</u>	6,722 <u>6,972</u>	51%
11	6,723 <u>6,973</u>	7,083 <u>7,333</u>	49%
12	7,084 <u>7,334</u>	7,444 <u>7,694</u>	47%
13	7,445 <u>7,695</u>	7,805 <u>8,055</u>	45%
14	7,806 <u>8,056</u>	8,166 <u>8,416</u>	43%
15	8,167 <u>8,417</u>	8,527 <u>8,777</u>	41%
16	8,528 <u>8,778</u>	8,888 <u>9,138</u>	39%
17	8,889 <u>9,139</u>	9,249 <u>9,499</u>	37%
18	9,250 <u>9,500</u>	9,610 <u>9,860</u>	35%
19	9,611 <u>9,861</u>	9,971 <u>10,221</u>	33%
20	9,972 <u>10,222</u>	10,332 <u>10,582</u>	31%
21	10,333 <u>10,583</u>	10,693 <u>10,943</u>	29%
22	10,694 <u>10,944</u>	11,054 <u>11,304</u>	27%
23	11,055 <u>11,305</u>	11,415 <u>11,665</u>	25%
24	11,416 <u>11,666</u>	11,776 <u>12,026</u>	23%
25	11,777 <u>12,027</u>	12,137 <u>12,387</u>	21%
26	12,138 <u>12,388</u>	12,500 <u>12,750</u>	19%
27	over 12,500 <u>12,750</u>		No refund

28 Section 6. That § 10-45A-5 be amended to read as follows:

1 10-45A-5. The amount of any claim made pursuant to this chapter by a claimant from a
2 household consisting solely of one individual shall be determined as follows:

- 3 (1) If the claimant's income is three thousand ~~two hundred fifty~~ five hundred dollars or
4 less, a sum of two hundred fifty-eight dollars;
- 5 (2) If the claimant's income is three thousand ~~two hundred fifty-one~~ five hundred one
6 dollars and not more than nine thousand ~~five hundred~~ seven hundred fifty dollars, a
7 sum of forty-six dollars plus three and four-tenths percent of the difference between
8 nine thousand seven hundred fifty dollars and the income of the claimant;
- 9 (3) If the claimant's income is more than nine thousand ~~five hundred~~ seven hundred fifty
10 dollars, no refund.

11 Section 7. That § 10-45A-6 be amended to read as follows:

12 10-45A-6. The amount of any claim made pursuant to this chapter by a claimant from a
13 household consisting of more than one individual shall be determined as follows:

- 14 (1) If household income is six thousand two hundred fifty dollars or less, the sum of five
15 hundred eighty-one dollars;
- 16 (2) If household income is six thousand ~~one~~ two hundred fifty-six dollars and not more
17 than twelve thousand ~~five hundred~~ seven hundred fifty dollars, a sum of seventy-four
18 dollars plus seven and eight-tenths percent of the difference between twelve thousand
19 seven hundred fifty dollars and total household income;
- 20 (3) If household income is more than twelve thousand ~~five hundred~~ seven hundred fifty
21 dollars, no refund.