

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

400C0199

SENATE BILL NO. 15

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

1 FOR AN ACT ENTITLED, An Act to exempt inmate matters from certain contested case, rule
2 making, and declaratory ruling processes.

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

4 Section 1. That subdivision (2) of § 1-26-1 be amended to read as follows:

5 (2) "Contested case," a proceeding, including rate-making and licensing, in which the
6 legal rights, duties, or privileges of a party are required by law to be determined by
7 an agency after an opportunity for hearing but the term does not include the
8 proceedings relating to rule making other than rate-making, proceedings related to
9 inmate disciplinary matters as defined in § 1-15-20.1, or student academic or
10 disciplinary proceedings under the jurisdiction of the Board of Regents or complaints
11 brought by students attending institutions controlled by the Board of Regents about
12 their residency classification under §§ 13-53-23 to 13-53-41, inclusive;

13 Section 2. That § 1-26-13 be amended to read as follows:

14 1-26-13. An interested person, other than an inmate as defined in § 1-15-20.1, may petition
15 an agency requesting the promulgation, amendment, or repeal of a rule. The petition shall contain
16 the text or substance of any new rule or amendment sought, the identification of any rule sought
17 to be repealed, reasons for the proposal, and the name and address of the petitioner. Within thirty

1 days after submission of a petition, the agency either shall deny the petition in writing (stating
2 its reasons for the denials) or shall initiate rule-making proceedings in accordance with § 1-26-4.
3 The agency shall serve a copy of any petitions and denials on the members of the Interim Rules
4 Review Committee and the director of the Legislative Research Council.

5 Section 3. That § 1-26-15 be amended to read as follows:

6 1-26-15. Each agency shall provide by rule for the filing and prompt disposition of petitions
7 for declaratory rulings as to the applicability of any statutory provision or of any rule or order
8 of the agency. No inmate as defined in § 1-15-20.1 may petition an agency for a declaratory
9 ruling on the applicability of statutory provisions, rules, or orders of the agency. Rulings
10 disposing of petitions have the same status as agency decisions or orders in contested cases. A
11 copy of all such rulings shall be filed with the director for publication in the administrative rules
12 of South Dakota.