

# Guide to Legislative Drafting



*Revised December 2025*

# TABLE OF CONTENTS

|                                                                      |    |
|----------------------------------------------------------------------|----|
| PART I. LEGISLATIVE DRAFTING IN SOUTH DAKOTA.....                    | 6  |
| An Overview .....                                                    | 6  |
| PART II. GLOSSARY.....                                               | 7  |
| PART III. BILL STRUCTURE.....                                        | 9  |
| Section 1. Numbering .....                                           | 10 |
| Section 2. Sponsors .....                                            | 10 |
| Section 3. Title .....                                               | 11 |
| 3.1. Active Verbs .....                                              | 12 |
| 3.2. Title Phrases.....                                              | 12 |
| Section 4. Enacting Clause .....                                     | 13 |
| Section 5. Body of a Bill.....                                       | 13 |
| 5.1. Purpose .....                                                   | 13 |
| 5.2. Bill Sections .....                                             | 13 |
| Section 6. Catchlines .....                                          | 14 |
| PART IV. DEFINITIONS .....                                           | 15 |
| Section 1. General .....                                             | 15 |
| Section 2. Drafting Definitions .....                                | 15 |
| PART V. FORM AND STYLE.....                                          | 18 |
| Section 1. Consistency.....                                          | 18 |
| Section 2. New, Amended, and Repealed Statutes .....                 | 18 |
| Section 3. Dangling Words, Phrases, Punctuation, and Numbers .....   | 22 |
| Section 4. Numbering Statutory Material .....                        | 22 |
| Section 5. Imperative, Permissive, and Prohibitive Construction..... | 23 |
| Section 6. Active Voice .....                                        | 25 |
| Section 7. Singular vs. Plural .....                                 | 25 |
| Section 8. Plain Language .....                                      | 26 |
| Section 9. Root Words and Redundant Words.....                       | 26 |
| Section 10. Multi-word Reference.....                                | 27 |
| Section 11. Acronyms and Initialisms.....                            | 28 |
| Section 12. Lists .....                                              | 29 |
| Section 13. Capitalization.....                                      | 30 |
| Section 14. Inserting Examples.....                                  | 31 |
| Section 15. Gender .....                                             | 32 |
| Section 16. "Individual-first" Language .....                        | 32 |
| Section 17. Referencing Entities or Items by Name .....              | 33 |
| Section 18. Hyphenation.....                                         | 33 |
| Section 19. Age .....                                                | 34 |
| Section 20. Numbers.....                                             | 34 |

|                                                                                             |    |
|---------------------------------------------------------------------------------------------|----|
| Section 21. Money .....                                                                     | 35 |
| Section 22. Date and Time .....                                                             | 36 |
| Section 23. Using Proper Punctuation .....                                                  | 36 |
| Section 24. Quotations .....                                                                | 38 |
| Section 25. Referencing Existing Law .....                                                  | 38 |
| Section 26. Cross-referencing a "Chapter" vs. an "Act" .....                                | 40 |
| Section 27. Cross-referencing "Subdivisions" and "Subsections" .....                        | 42 |
| Section 28. Establishing Interest Rates .....                                               | 43 |
| PART VI. WORD PREFERENCES .....                                                             | 44 |
| Section 1. Avoiding Certain Words and Phrases .....                                         | 44 |
| Section 2. Using "Damage" or "Injury" .....                                                 | 46 |
| Section 3. Using "Duty" or "Power" .....                                                    | 46 |
| Section 4. Using "Ensure" or "Insure" .....                                                 | 47 |
| Section 5. Using "Farther" or "Further" .....                                               | 47 |
| Section 6. Using "Fewer" or "Less" .....                                                    | 47 |
| Section 7. Using "Healthcare" or "Health care" .....                                        | 47 |
| Section 8. Using "In accordance with" or "Pursuant to" .....                                | 48 |
| Section 9. Using "Individual" or "Person" .....                                             | 48 |
| Section 10. Using "That" or "Which" .....                                                   | 48 |
| Section 11. Using "When" or "If" .....                                                      | 49 |
| Section 12. Using "Where" or "In Which" .....                                               | 49 |
| Section 13. Using "Whether" or "Whether or Not" .....                                       | 49 |
| Section 14. Using "Who" or "Whom" .....                                                     | 50 |
| PART VII. ORDER OF WORDS AND PHRASES.....                                                   | 51 |
| Section 1. Positioning Words and Phrases to Avoid Unclear and Unintended Interpretations .. | 51 |
| Section 2. The Placement of "Only" .....                                                    | 52 |
| PART VIII. FEES.....                                                                        | 53 |
| PART IX. PENALTIES.....                                                                     | 54 |
| Section 1. Felonies, SDCL § 22-6-1 .....                                                    | 54 |
| Section 2. Misdemeanors, SDCL § 22-6-2.....                                                 | 54 |
| Section 3. Petty Offenses, SDCL § 23-1A-22 .....                                            | 54 |
| Section 4. Determining the Appropriate Criminal Penalty .....                               | 55 |
| Section 5. Drafting a Criminal Penalty .....                                                | 55 |
| Section 6. Civil Penalty .....                                                              | 55 |
| PART X. EFFECTIVE DATES.....                                                                | 56 |
| Section 1. General .....                                                                    | 56 |
| Section 2. Emergency.....                                                                   | 56 |
| PART XI. EXPIRATION DATES .....                                                             | 58 |

|                                                                            |    |
|----------------------------------------------------------------------------|----|
| PART XII. UNCOMMON SECTIONS OF A BILL .....                                | 60 |
| Section 1. Retroactive Applicability .....                                 | 60 |
| Section 2. Code Commission Authorization Clause .....                      | 60 |
| Section 3. Suspension .....                                                | 61 |
| PART XIII. UNCOMMON REFERENCES.....                                        | 62 |
| Section 1. References to a Bill Created During the Current Session .....   | 62 |
| PART XIV. NONESSENTIAL SECTIONS OF A BILL .....                            | 63 |
| Section 1. Declaration of Purpose or Statement of Legislative Intent ..... | 63 |
| Section 2. Legislative Findings .....                                      | 63 |
| Section 3. Severability Clauses .....                                      | 64 |
| Section 4. Inseverability Clauses.....                                     | 64 |
| Section 5. Short Titles .....                                              | 64 |
| PART XV. APPROPRIATIONS, STATE MONEYS, AND FUNDS .....                     | 65 |
| Section 1. General .....                                                   | 65 |
| Section 2. Special Appropriation Bill.....                                 | 65 |
| 2.1. How Much and From Where .....                                         | 66 |
| 2.2. To What Entity and For What Purpose .....                             | 67 |
| 2.3. Framework.....                                                        | 67 |
| 2.4. Voucher and Warrant Language.....                                     | 67 |
| 2.5. Reversion Language .....                                              | 68 |
| 2.6. Effective Date .....                                                  | 68 |
| Section 3. Construction Projects.....                                      | 69 |
| Section 4. Appropriations With Multiple Funds .....                        | 70 |
| Section 5. Appropriations to Multiple Agencies .....                       | 71 |
| Section 6. Creating a Fund .....                                           | 71 |
| Section 7. Continuous Appropriations.....                                  | 73 |
| Section 8. Amending Previous Appropriations.....                           | 74 |
| Section 9. Transferring Moneys .....                                       | 75 |
| PART XVI. STATE AGENCIES .....                                             | 76 |
| Section 1. Proper Names of State Agencies.....                             | 76 |
| Section 2. Creating a New Entity .....                                     | 80 |
| 2.1. Name .....                                                            | 80 |
| 2.2. Allocation.....                                                       | 81 |
| 2.3. Membership .....                                                      | 81 |
| 2.4. Terms.....                                                            | 82 |
| 2.5. Vacancies.....                                                        | 83 |
| 2.6. Removal .....                                                         | 84 |
| 2.7. Compensation for Members .....                                        | 84 |
| 2.8. Chair and Other Officers .....                                        | 84 |
| 2.9. Meetings.....                                                         | 85 |

|                                                                                              |     |
|----------------------------------------------------------------------------------------------|-----|
| 2.10. Duties.....                                                                            | 85  |
| 2.11. Powers.....                                                                            | 86  |
| 2.12. Administrative Support.....                                                            | 86  |
| 2.13. Funding .....                                                                          | 86  |
| PART XVII. CHECKLIST FOR BILL DRAFTING .....                                                 | 87  |
| PART XVIII. RESOLUTIONS AND COMMEMORATIONS .....                                             | 89  |
| Section 1. Joint Resolution .....                                                            | 89  |
| Section 2. Concurrent Resolution .....                                                       | 89  |
| Section 3. House or Senate Resolution.....                                                   | 89  |
| Section 4. Resolution of Disapproval .....                                                   | 90  |
| Section 5. Commemoration .....                                                               | 90  |
| Section 6. Drafting Resolutions and Commemorations .....                                     | 90  |
| PART XIX. AMENDMENTS .....                                                                   | 91  |
| PART XX. RULE-MAKING AUTHORITY .....                                                         | 95  |
| Section 1. Administrative Procedures, SDCL chapter 1-26 .....                                | 95  |
| Section 2. Rules for New Programs .....                                                      | 95  |
| Section 3. Narrow and Specific Rule-making Authority.....                                    | 95  |
| Section 4. Amending Rule-making Authority .....                                              | 96  |
| Section 5. Amending Administrative Rule by Law.....                                          | 96  |
| PART XXI. APPENDIX .....                                                                     | 97  |
| Section 1. A Bill to Add a New Section to the Code.....                                      | 97  |
| Section 2. A Bill to Add a New Subdivision to a Section of the Code.....                     | 98  |
| Section 3. A Bill to Amend a Section of the Code .....                                       | 99  |
| Section 4. A Bill to Amend a Section of Session Law.....                                     | 100 |
| Section 5. A Bill to Amend a Section of a Bill Enacted Earlier in the Same Session .....     | 101 |
| Section 6. A Bill to Remove a Subdivision from a Section of the Code .....                   | 102 |
| Section 7. A Bill to Repeal a Section of the Code.....                                       | 103 |
| Section 8. A Bill to Repeal Multiple Sections of the Code .....                              | 104 |
| Section 9. A Bill to Repeal a Section of Session Law .....                                   | 105 |
| Section 10. A Bill Establishing a Civil Penalty .....                                        | 106 |
| Section 11. A Bill Containing an Effective Date .....                                        | 107 |
| Section 12. A Bill Containing an Expiration Date .....                                       | 108 |
| Section 13. A Bill Containing an Expiration Date That Affects Only One Section .....         | 109 |
| Section 14. A Bill Containing an Emergency Clause .....                                      | 110 |
| Section 15. A Bill That References Federal Statutes.....                                     | 111 |
| Section 16. A Bill That References Federal Regulations .....                                 | 112 |
| Section 17. A Bill That Updates a Reference to a Federal Statute .....                       | 113 |
| Section 18. A Vehicle Bill .....                                                             | 114 |
| Section 19. A Bill That Makes a Special Appropriation.....                                   | 115 |
| Section 20. A Bill That Makes a Special Appropriation Associated with Capital Construction . | 116 |

|                                                                                                                      |     |
|----------------------------------------------------------------------------------------------------------------------|-----|
| Section 21. A Bill That Makes an Appropriation Involving Multiple Funds .....                                        | 117 |
| Section 22. A Bill That Makes an Appropriation Involving Multiple Agencies .....                                     | 118 |
| Section 23. A Bill That Makes a Continuous Appropriation .....                                                       | 119 |
| Section 24. A Bill That Amends a Previous Appropriation .....                                                        | 120 |
| Section 25. A Bill That Creates a Fund .....                                                                         | 121 |
| Section 26. A Bill That Transfers Moneys and Makes an Appropriation.....                                             | 122 |
| Section 27. A Bill That Directs the Amendment of an Administrative Rule .....                                        | 123 |
| Section 28. A Bill That Directs the Repeal of an Administrative Rule .....                                           | 124 |
| Section 29. A Joint Resolution Proposing an Amendment to One Section of the<br>South Dakota Constitution .....       | 125 |
| Section 30. A Joint Resolution Proposing an Amendment to multiple sections of the<br>South Dakota Constitution ..... | 126 |
| Section 31. A Joint Resolution for an Article V Convention to Propose Amendments<br>to the U.S. Constitution .....   | 127 |
| Section 32. A Concurrent Resolution .....                                                                            | 128 |
| Section 33. A Resolution .....                                                                                       | 129 |
| Section 34. A Resolution of Disapproval .....                                                                        | 130 |
| Section 35. A Commemoration.....                                                                                     | 131 |

# **PART I. LEGISLATIVE DRAFTING IN SOUTH DAKOTA**

## **An Overview**

In South Dakota, all bills, resolutions, and commemorations must be reviewed for style and form by the Legislative Research Council before being introduced. See [Joint Rule 6A-5](#), Rules of the South Dakota Legislature. The review is conducted in accordance with the style and form recommendations set forth in this *Guide to Legislative Drafting*. The recommendations found in the *Guide* combine many long-established South Dakota drafting practices with techniques that are designed to create a clear and comprehensible draft.

As with any art form, drafting improves with practice and experience. Whether one is a novice or a seasoned drafter, one is encouraged to utilize this *Guide*. Become familiar with it before beginning any drafting efforts and consult it frequently during drafting efforts.

This *Guide* contains reminders, helpful hints, suggested language, and examples of commonly created drafts, including bills, concurrent resolutions, joint resolutions, House resolutions, Senate resolutions, resolutions of disapproval, and commemorations.

If the *Guide* does not address a particular drafting challenge, or if questions arise during the drafting process, please do not hesitate to contact the Legislative Research Council at 605-773-3251.

## PART II. GLOSSARY

"ACT," a bill that has been approved by both houses of the Legislature in identical form.

"AMENDMENT," an alteration proposed to a bill or resolution.

"BILL," a proposal to the Legislature to create, change, or repeal law.

"CATCHLINE," the boldface material between the codified section number and the section material in the South Dakota Codified Laws. The catchline provides the general topic of the material in the section but is not part of the law.

"COMMEMORATION," a document that expresses legislative recognition of service or achievements, having national or statewide importance, or legislative sorrow over a death or loss. A commemoration is written in the form of a resolution and is entered in the journals.

"CONCURRENT RESOLUTION," a document that expresses an opinion or principle of the Legislature, requests an interim study, instructs a department of state government, or petitions a federal agency.

"ENGROSS," to incorporate adopted amendments into the text of the bill.

"ENROLL," to prepare an Act for presentation to the Governor.

"GENERAL APPROPRIATION BILL," a bill that, in accordance with [S.D. Const., Art. XII, § 2](#), contains nothing but appropriations for "ordinary expenses of the executive, legislative and judicial departments of the state, the current expenses of state institutions, interest on the public debt, and for common schools."

"HOGHOUSE AMENDMENT," an amendment in which everything after the enacting clause is deleted and new material is substituted.

"JOINT RESOLUTION," a document that proposes an amendment to the South Dakota Constitution, ratifies an amendment to the United States Constitution, withdraws a previously ratified amendment to the United States Constitution, petitions Congress to call a constitutional convention, or grants a water right.

"PREFILE," the filing of a bill or resolution with the Legislative Research Council, within the thirty-day period prior to the first day of the regular legislative session, and in accordance with rules adopted by the Legislature.

"RESOLUTION," a document that expresses an opinion or principle of one house, makes a request of the other house, regulates procedure, or refers to the Executive Board of the Legislative Research Council a topic for possible study by an interim committee.

"RESOLUTION OF DISAPPROVAL," a document that suspends the operation of an executive order related to governmental reorganization.

"SESSION LAWS," an annual compilation of the laws, joint resolutions, rules of court, executive orders adopted pursuant to the Constitution, voter-approved initiated Constitutional amendments, and voter-approved initiated measures.

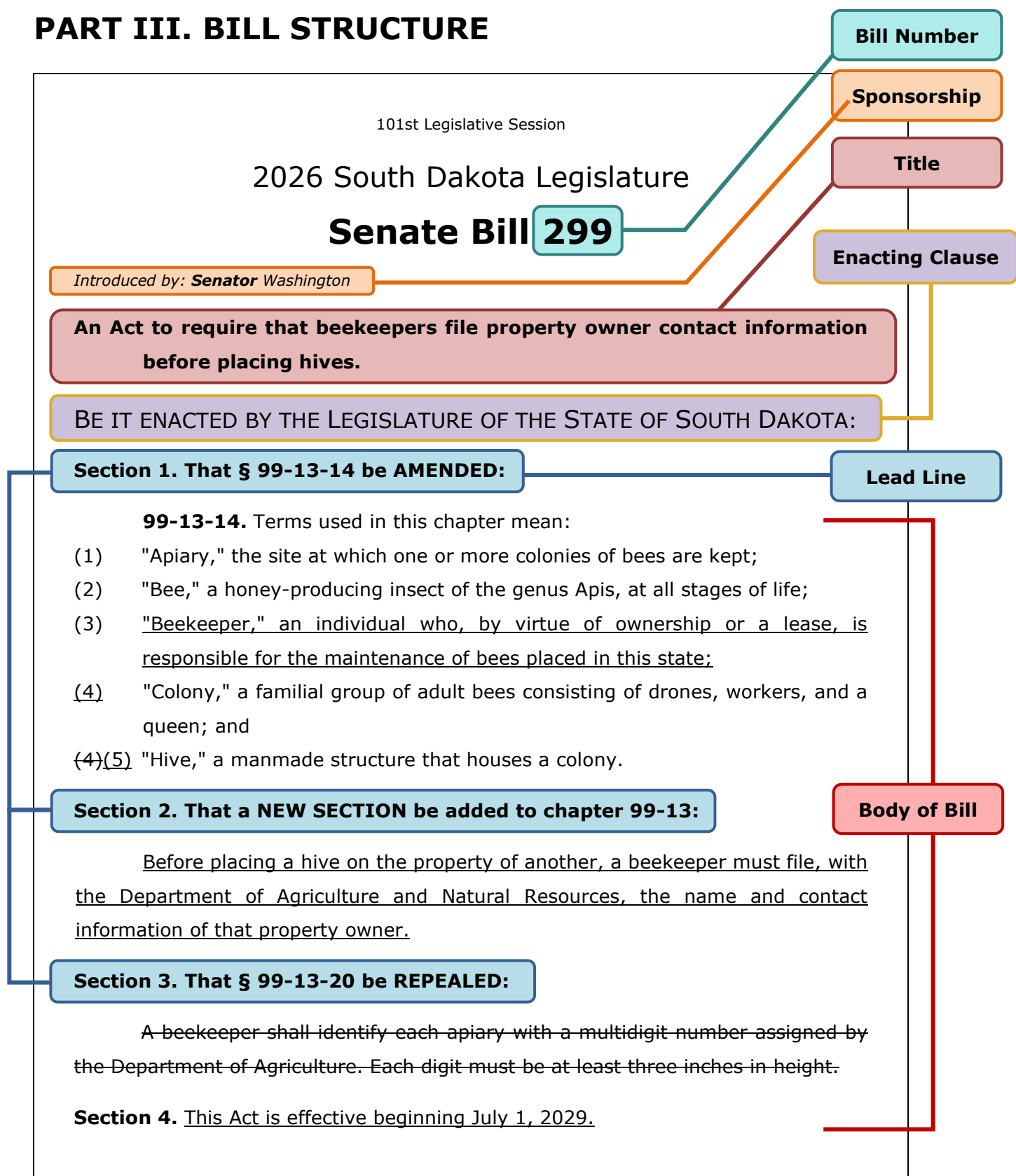
"SHORT TITLE," a phrase that is independent of a bill's formal title but inserted into the bill as a convenient or memorable way of referring to the bill or the nature of its content.

"SPECIAL APPROPRIATION BILL," a bill that, in accordance with [S.D. Const., Art. XII, § 2](#), contains any appropriation not otherwise meeting the requirements for inclusion in the General Appropriation Bill.

"SOUTH DAKOTA CODIFIED LAWS," the current codification of South Dakota laws of a general and permanent nature. It does not include appropriations or local or special laws.

"VEHICLE BILL," a broadly worded, one-sentence bill that is available for amendment during the legislative session.

## PART III. BILL STRUCTURE



## **Section 1. Numbering**

When a bill, resolution, or commemoration is introduced, it is assigned a sequential number. If a bill, resolution, or commemoration is prefiled, *i.e.*, introduced before the start of the legislative session, the Director of the Legislative Research Council assigns the number.

The Senate and House of Representatives utilize the following numbering sequences:

|                                     | <b><u>Senate</u></b> | <b><u>House</u></b> |
|-------------------------------------|----------------------|---------------------|
| <b>Bills:</b>                       | 1 to 500             | 1001 to 5000        |
| <b>Joint Resolutions:</b>           | 501 to 600           | 5001 to 6000        |
| <b>Concurrent Resolutions:</b>      | 601 to 700           | 6001 to 7000        |
| <b>House or Senate Resolutions:</b> | 701 to 800           | 7001 to 8000        |
| <b>Commemorations:</b>              | 801 to 900           | 8001 to 9000        |
| <b>Resolutions of Disapproval:</b>  | 901 to 1000          | 9001 to 9999        |

A bill is referred to by its house of origin and number, *e.g.*, Senate Bill 39 or SB 39. The same is true for resolutions and commemorations.

## **Section 2. Sponsors**

To be introduced, a draft must have the sponsorship of at least one legislator or a legislative committee. It is not necessary to have a sponsor from each house. Only the name of the prime sponsor appears on the bill, resolution, or commemoration. Co-sponsors are listed in the document's history, which can be found on the Legislative Research Council website at <https://sdlegislature.gov>.

The example below indicates that Senator Adams is the prime sponsor.

|                                                                                                                                                                                |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>2026 South Dakota Legislature</p> <p><b>Senate Bill 310</b></p> <p><i>Introduced by: <b>Senator</b> Adams</i></p> <p><b>An Act to make an appropriation for . . . .</b></p> |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

A bill that is requested by the Governor, the chief justice, or an agency may, for purposes of prefiling, be introduced as a committee bill, with the permission of the chair. In this case, a vote of the committee is not required. The bill must, however, include the name of the requesting entity.

## 2026 South Dakota Legislature

### Senate Bill 342

*Introduced by: The Chair of the Committee on Health and Human Services at the request of the Department of Health*

**An Act to require consent . . . .**

## 2026 South Dakota Legislature

### House Bill 1066

*Introduced by: The Chair of the Committee on Commerce and Energy at the request of the State Electrical Commission*

**An Act to modify membership . . . .**

After the prefiling period, a bill that is requested by the Governor or the chief justice requires a favorable vote of a committee in order to be introduced by the committee.

### **Section 3. Title**

[S.D. Const., Art. III, § 21](#) states that "[n]o law shall embrace more than one subject, which shall be expressed in its title."

The title should summarize the subject of the proposed legislation so that a reader can understand what the legislation would accomplish, without having to read the entire document. The title should be clear, direct, and broad enough so that a minor change to the content will not necessitate a title amendment.

Citations to an existing law do not appear in the title.

 **DRAFTING TIP:** Draft the title after completing the content. This helps to capture the content accurately.

### 3.1. Active Verbs

A title must use an active verb in the infinitive to express the purpose of the bill, *e.g.*, "An Act *to update* the official code of laws." The infinitive is a verb form that requires the word "to" before the base form, as in "to establish" or "to increase."

Commonly used active verbs include:

|             |           |          |          |          |
|-------------|-----------|----------|----------|----------|
| add         | declare   | increase | reduce   | restrict |
| appropriate | define    | limit    | regulate | revise   |
| authorize   | direct    | modify   | remove   | subject  |
| clarify     | establish | permit   | rename   | transfer |
| codify      | exempt    | prohibit | repeal   | update   |
| create      | extend    | provide  | require  | waive    |

### 3.2. Title Phrases

If a bill includes an appropriation, the title must include the phrase "and to make an appropriation therefor."

If a bill establishes or increases a civil or criminal penalty, the title must include the phrase "and to provide a penalty therefor."

The word "therefor" is included with certain phrases to show that the "penalty" or "appropriation" relates back to the single subject set forth in the title.

If a bill establishes a new tax, the title must include the phrase "and to authorize a new tax." If a bill increases a tax, the title must include the phrase "and to increase a tax." The phrase "and to authorize a new tax" or the phrase "and to increase a tax" must be added whenever a new tax or tax increase is proposed, or whenever a new fee or fee increase is proposed, if the fee proceeds are not used merely to cover the cost and expense of supervision or regulation. See *Valandra v. Viedt*, 259 N.W.2d 510 (S.D. 1977).

If a bill is to be effective immediately upon enactment because of an emergency, the title must include the phrase "and to declare an emergency."

If a bill is introduced solely to repeal existing law, the title must include the phrase "to repeal provisions regarding [*the subject matter of those repealed provisions*]."

---

---

 **DRAFTING TIP:** A title should not include the phrase "certain provisions."

---

---

## **Section 4. Enacting Clause**

[S.D. Const., Art. III, § 18](#) requires that each bill introduced in the Legislature contain the following enacting clause:

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

[S.D. Const., Art. III, § 1](#) requires that each proposed initiated measure contain the following enacting clause:

BE IT ENACTED BY THE PEOPLE OF SOUTH DAKOTA:

The enacting clause of a bill follows the title.

## **Section 5. Body of a Bill**

### ***5.1. Purpose***

The body of a bill sets forth the material intended to be enacted. It may include new law, the amendment of existing law, the repeal of existing law, or an appropriation of funds.

 **DRAFTING TIP:** [S.D. Const., Art. III, § 21](#) provides that "[n]o law shall embrace more than one subject . . . ." If a draft appears to include more than one subject, consider dividing the subjects among multiple drafts.

### ***5.2. Bill Sections***

The body of a bill should be divided into short sections, comprised of plainly worded sentences. Each distinct proposition should be in a separate section, which may, if necessary, be divided into subdivisions. Sections in the body of a bill should be identified as Section 1, Section 2, etc.

The body of a bill may contain any number of sections, so long as each section relates to the single subject expressed in the title.

To ensure consistency, the sections of a bill, other than an appropriation bill, should be placed in the following order:

- Statutory provisions that are being added or amended, in numerical order
- Uncodified provisions, including appropriations and transfers
- Statutory provisions that are being suspended, in numerical order

- Statutory provisions that are being repealed, in numerical order
- Retroactivity provisions
- Expiration dates
- Effective dates
- Emergency clauses

A section may not begin with a numbered subdivision. A subdivision may not begin with a numbered subsection. Each requires lead-in language.

|                  |                                                                                                                                                                                                                                                                                                                                                                                                                           |
|------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Incorrect</b> | <p><b>Section 6. That a NEW SECTION be added to chapter 99-15:</b></p> <p><u>(1) In order to operate as a commercial breeder, an individual must submit a licensure application.</u></p> <p><u>(2) Each applicant for a commercial breeder license must provide at least three references.</u></p> <p><u>(3) Each application for a commercial breeder license must include a fee in the amount of fifty dollars.</u></p> |
| <b>Correct</b>   | <p><b>Section 6. That a NEW SECTION be added to chapter 99-15:</b></p> <p><u>In order to operate as a commercial breeder, an individual must:</u></p> <p><u>(1) Submit a licensure application;</u></p> <p><u>(2) Provide at least three references; and</u></p> <p><u>(3) Include a fee in the amount of fifty dollars.</u></p>                                                                                          |

## **Section 6. Catchlines**

The material found at the beginning of each codified section, following the section number, is called the catchline. The catchline provides the topic of the material in the section.

### **57-67-77. Placement of hives--Filing requirements.**

Before placing a hive on the property of another, a beekeeper must file with the Department . . . .

A catchline is not a part of the law. See [SDCL §§ 2-14-9](#) and [2-16-13.1](#). A catchline is not depicted on the bill, but instead is assigned by the Code Counsel under authority delegated by the Code Commission. See [SDCL § 2-16-9](#).

## PART IV. DEFINITIONS

### **Section 1. General**

[SDCL § 2-14-1](#) provides that words "are to be understood in their ordinary sense . . . ." If a word has a clear and common meaning, applicable to the law in question, it is not necessary to define the word.

[SDCL § 2-14-2](#) contains words and phrases that are defined for purposes of the entire Code. Those words and phrases are set forth below and do not need to be redefined in a bill draft, unless a different meaning is to be assigned.

|                             |                   |                           |
|-----------------------------|-------------------|---------------------------|
| according to usage          | good faith        | signature or subscription |
| adult                       | Indian tribe      | state                     |
| children                    | month             | testify                   |
| compound interest           | municipality      | third persons             |
| corporate surety            | oath              | township boards           |
| creditor                    | person            | usual and customary       |
| day                         | personal property | valuable consideration    |
| debtor                      | population        | verdict                   |
| decree                      | property          | voter                     |
| depose                      | real property     | will                      |
| folio                       | seal              | writing or written        |
| full-time equivalent or FTE | several           | year                      |

### **Section 2. Drafting Definitions**

A word or phrase may be defined in a section that contains multiple definitions and applies to an entire chapter, or to specific sections within the chapter. A word or phrase may also be defined in the section in which it is used. Occasionally, the definition of a word or phrase may constitute the only content of a section.

- Definitions must be inserted in alphabetical order. If the definition section being amended is not in alphabetical order, reorder the definitions. Inserting, deleting, or reordering definitions may require cross-reference changes in other SDCL sections. This generally occurs when the cross-references include specific subdivisions.
- If a definition section that is applicable to the chapter already exists, amend that section by adding the pertinent definitions, rather than creating another definition section in the bill.
- Do not use the word or phrase being defined in its own definition.

- Do not define a word or phrase that is not used in the bill or in the applicable section or chapter.
- Once a word or phrase is defined, use the word or phrase consistently throughout the draft.
- Do not include "unless the context requires otherwise." This makes it unclear as to when the definition is applicable.
- Do not provide that a word or phrase "means and includes." The former establishes that the definition is exclusive. The latter creates conflict by suggesting that the definition is merely illustrative.
- Do not contort definitions. If an existing section pertains to county courthouses, do not provide that for purposes of this section, "county courthouse" means "the state capitol and any other structure used for the public sessions of a circuit court."
- Do not insert substantive law into a definition section.

This is an example of a definition section:

**Section 1. That a NEW SECTION be added to chapter 99-14:**

Terms used in this chapter mean:

- (1) "Actor," an individual who takes an active part in a transaction;
- (2) "Crime of violence," aggravated assault, arson, burglary, kidnapping, manslaughter, murder, rape, robbery, or sexual contact;
- (3) "Critical infrastructure," any facility used for:
  - (a) Municipal water treatment;
  - (b) Natural gas storage; or
  - (c) Power generation; and
- (4) "Public employee," any individual employed by this state or a political subdivision of this state.

This is an example of a definition that is included in a section containing substantive language:

**Section 6. That a NEW SECTION be added to chapter 99-15:**

An individual may use night-vision equipment while hunting on land that the individual owns or leases.

For purposes of this section, "night-vision equipment" means an electronically powered or battery-powered device that enhances an individual's ability to see in the dark.

Do not use cross-references in a definition section. The purpose of a statutory definition is to assist individuals in understanding the nature and scope of the substantive sections that use a particular term. It is not helpful if a drafter foregoes creating a clear, succinct definition and simply directs an individual to "look elsewhere."

Moreover, the original definition that is being cross-referenced might be amended to address issues in the chapter for which the definition was created. Those amendments might not be compatible with the sections being drafted.

|                         |                                                                                                                                                                                                                                                                                                                                                                                                         |
|-------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>Incorrect</b></p> | <p><b>Section 1. That a NEW SECTION be added to chapter 99-14:</b></p> <p><u>Terms used in this chapter mean:</u></p> <p>(1) <u>"Actor," the same as subdivision 22-23-27(4);</u></p> <p>(2) <u>"Crime of violence," the same as subdivision 41-15-12(6);</u></p> <p><u>. . . .</u></p>                                                                                                                 |
| <p><b>Correct</b></p>   | <p><b>Section 1. That a NEW SECTION be added to chapter 99-14:</b></p> <p><u>Terms used in this chapter mean:</u></p> <p>(1) <u>"Actor," an individual who takes an active part in a transaction;</u></p> <p>(2) <u>"Crime of violence," aggravated assault, arson, burglary,</u><br/> <u>kidnapping, manslaughter, murder, rape, robbery, or sexual</u><br/> <u>contact;</u></p> <p><u>. . . .</u></p> |

## PART V. FORM AND STYLE

### Section 1. Consistency

In the context of bill drafting, consistency requires foregoing elegant and varying word choices in favor of being repetitive. The same word or phrase should be used to denote the same thing throughout a bill.

|                  |                                                                                                |
|------------------|------------------------------------------------------------------------------------------------|
| <b>Incorrect</b> | The <u>owner</u> of an <u>automobile</u> shall annually register the <u>individual's car</u> . |
| <b>Correct</b>   | The <u>owner</u> of a <u>motor vehicle</u> shall annually register the <u>motor vehicle</u> .  |

A drafter must select words that clearly and accurately convey the sponsor's intent.

|                  |                                                                                                                                                                                                                    |
|------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Incorrect</b> | The <u>state engineer</u> shall verify that each construction project has been completed before authorizing payment. The <u>chief engineer</u> shall provide a list of all completed buildings to the Legislature. |
| <b>Correct</b>   | The <u>state engineer</u> shall verify that each construction project has been completed before authorizing payment. The <u>state engineer</u> shall provide a list of all completed projects to the Legislature.  |

Word choice must be consistent within a draft and compatible with the chapter of law in which the proposed language will be located.

---

---

 **DRAFTING TIP:** If a chapter refers to an individual under eighteen as a "minor," so too should the bill draft. Using synonyms such as "child" or "juvenile" may add variety, but it may also cause confusion.

---

---

### Section 2. New, Amended, and Repealed Statutes

When drafting a bill, the text to be deleted is overstricken and new text is underscored. New, underscored text always follows the overstricken text.

If text is to be deleted, overstrike the single space before the deleted text. If text is to be added, underscore the single space immediately before the new text.

|                  |                                                                                                                      |
|------------------|----------------------------------------------------------------------------------------------------------------------|
| <b>Incorrect</b> | The term "covered individual" means a <del>participant</del> <u>contract holder</u> who is provided health coverage. |
| <b>Correct</b>   | The term "covered individual" means a <del>participant</del> <u>contract holder</u> who is provided health coverage. |

If text that begins a section is to be deleted and new text added immediately thereafter, overstrike the space that follows the deleted text and add an underscored space at the end of the new text.

|                  |                                                                                                                                                           |
|------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Incorrect</b> | <b>13-42-7.</b> <del>An individual</del> <u>The board</u> may refuse to issue or renew a certificate for any reason referenced in §§ 13-42-9 or 13-42-10. |
| <b>Correct</b>   | <b>13-42-7.</b> <del>An individual</del> <u>The board</u> may refuse to issue or renew a certificate for any reason referenced in §§ 13-42-9 or 13-42-10. |

Existing punctuation following overstricken text should be carried to the end of the new text.

|                  |                                                                                                                                |
|------------------|--------------------------------------------------------------------------------------------------------------------------------|
| <b>Incorrect</b> | The board must issue a replacement certificate upon <del>request</del> . <u>receipt of a fee in the amount of ten dollars.</u> |
| <b>Correct</b>   | The board must issue a replacement certificate upon <del>request</del> <u>receipt of a fee in the amount of ten dollars.</u>   |

Do not overstrike or underscore part of a citation, number, numeric dollar amount, or word. Do not overstrike or underscore *only* the hyphen. Do not overstrike or underscore *only* a quotation mark.

| <b>Incorrect</b>     | <b>Correct</b>                                  |
|----------------------|-------------------------------------------------|
| § 32-14-79-87        | § <del>32-14-79</del> <u>§ 32-14-87</u>         |
| § 41-17-22(a)(b)     | § <del>41-17-22(a)</del> <u>§ 41-17-22(b)</u>   |
| forty-five           | <del>forty-five</del> <u>forty</u>              |
| \$1,000,000-500,000  | <del>\$1,000,000</del> <u>\$500,000</u>         |
| animals              | <del>animal</del> <u>animals</u>                |
| evidence-based-based | <del>evidence-based</del> <u>evidence-based</u> |
| "deer" license       | "deer license" <u>deer license</u>              |

Sections that consist entirely of new text, whether or not they are to be codified, must be underscored.

When amending, repealing, or adding a new section to the Code, and when adding a new chapter to the Code, use an appropriate lead line.

|                                                                 |
|-----------------------------------------------------------------|
| <b>That § 2-23-71 be AMENDED:</b>                               |
| <b>That § 2-23-74 be REPEALED:</b>                              |
| <b>That a NEW SECTION be added to chapter 2-23:</b>             |
| <b>That a NEW SECTION be added to a NEW CHAPTER in title 2:</b> |

When amending or repealing a Session Law, use an appropriate lead line for each section of the bill.

|                                                              |
|--------------------------------------------------------------|
| <b>That 2024 Session Laws, chapter 196, § 1 be AMENDED:</b>  |
| <b>That 2024 Session Laws, chapter 196, § 4 be REPEALED:</b> |

When proposing amendments to the South Dakota Constitution by joint resolution, use an appropriate lead line for each section of the resolution.

|                                                                                                   |
|---------------------------------------------------------------------------------------------------|
| <b>That Article IX, § 1 of the Constitution of the State of South Dakota, be AMENDED:</b>         |
| <b>That Article IX, § 2 of the Constitution of the State of South Dakota, be REPEALED:</b>        |
| <b>That a NEW SECTION be added to Article X of the Constitution of the State of South Dakota:</b> |
| <b>That a NEW ARTICLE be added to the Constitution of the State of South Dakota:</b>              |

If a single section is to be repealed, all the verbiage in that section is displayed as overstricken.

**Section 4. That § 10-63-9 be REPEALED.**

~~No criminal penalty or civil liability may be applied or assessed for failure to comply with this chapter.~~

If multiple sections are to be repealed, the verbiage of each section is displayed as overstricken.

**Section 4. That § 10-63-8 be REPEALED.**

~~A de minimis retailer and a de minimis online auction website are exempt from the notice requirements provided by this chapter.~~

**Section 5. That § 10-63-9 be REPEALED.**

~~No criminal penalty or civil liability may be applied or assessed for failure to comply with this chapter.~~

If an entire chapter is to be repealed, each section is not displayed as overstricken. Instead, only a lead line that references the repeal of the chapter is included.

**Section 6. That chapter 10-64 be REPEALED.**

**Section 7. That chapter 13-29 be REPEALED.**

**Section 8. That chapter 25-17 be REPEALED.**

---

---

 **DRAFTING TIP:** When a section is repealed, the content is removed from the law. There is no reversion to previously existing language.

---

---

### **Section 3. Dangling Words, Phrases, Punctuation, and Numbers**

As stated above, when drafting a bill, the text to be deleted is overstricken and new text is underscored. If, however, this results in a word, short phrase, punctuation mark, or number being retained in the middle of overstricken text, the drafter should include the "dangling" item within the overstricken portion and then recreate the item as new, underscored text.

In the following example, note the placement of the word "in."

|                  |                                                                                                                                                                                                                |
|------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Incorrect</b> | The agency shall issue a permit <del>to each person who submitted a completed application in accordance with this chapter and any rules adopted under this chapter</del> <u>the manner required by law.</u>    |
| <b>Correct</b>   | The agency shall issue a permit <del>to each person who submitted a completed application in accordance with this chapter and any rules adopted under this chapter</del> <u>in the manner required by law.</u> |

In the following example, the "retained" comma found between the words "section" and "expires" has been overstricken and recreated as a new, underscored comma after the word "year."

|                  |                                                                                                                                                                                                                                             |
|------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Incorrect</b> | Any license issued pursuant to this section <del>and rules promulgated under this section, expires on December thirty first of the next odd numbered year</del> <u>and any license issued by the municipality, may not be transferred.</u>  |
| <b>Correct</b>   | Any license issued pursuant to this section <del>and rules promulgated under this section, expires on December thirty first of the next odd numbered year,</del> <u>and any license issued by the municipality, may not be transferred.</u> |

### **Section 4. Numbering Statutory Material**

The SDCL is organized by title, chapter, section, subdivision, and subsection. A title consists of multiple chapters. A chapter consists of multiple sections. Material in a section may be organized as subdivisions and subsections.

|                    |               |
|--------------------|---------------|
| <b>Title</b>       | 77            |
| <b>Chapter</b>     | 77-3          |
| <b>Section</b>     | 77-3-31       |
| <b>Subdivision</b> | 77-3-31(2)    |
| <b>Subsection</b>  | 77-3-31(2)(b) |

Do not create multiple subdivision lists within a section. Do not create multiple subsection lists within a subdivision.

## **Section 5. Imperative, Permissive, and Prohibitive Construction**

Verbs used in legislation should be active and in the present tense. Verbs are generally imperative, permissive, or prohibitive.

| <b>Verb</b> | <b>Effect</b>                                                                                                   |
|-------------|-----------------------------------------------------------------------------------------------------------------|
| shall       | required action                                                                                                 |
| may         | permitted action                                                                                                |
| may only    | restricted permitted action                                                                                     |
| may not     | prohibited action                                                                                               |
| must        | requirement imposed upon an inanimate object<br>action required as a precursor to or condition of an occurrence |
| must be     | required condition                                                                                              |
| is          | statement of condition                                                                                          |

"Shall" and "must" manifest a mandatory directive. Neither confers any discretion in carrying out the directed action. See [SDCL § 2-14-2.1](#).

The secretary shall accept any application submitted before 5:00 p.m.

"May" provides discretion.

The secretary may accept any application submitted before 5:00 p.m.

 **DRAFTING TIP:** When providing discretion, consider whether guidelines should be included regarding the exercise of that discretion.

"May not" negates the obligation and permission to act.

The secretary may not accept any application submitted after 5:00 p.m.

 **DRAFTING TIP:** "Shall not" negates the obligation to act. It does not negate the permission to act. Therefore, its use should be avoided.

Use "is" rather than "shall be" when making a statement that is true by operation of law.

|                  |                                                                                            |
|------------------|--------------------------------------------------------------------------------------------|
| <b>Incorrect</b> | The secretary's annual salary <del>shall be</del> one hundred twenty-one thousand dollars. |
| <b>Correct</b>   | The secretary's annual salary <del>is</del> one hundred twenty-one thousand dollars.       |

Use "must" rather than "shall" when an action is required as a precursor to, or a condition of, an occurrence.

|                  |                                                                                                                |
|------------------|----------------------------------------------------------------------------------------------------------------|
| <b>Incorrect</b> | Before signing the contract, an individual <del>shall</del> complete the requirements set forth in § 34-35-36. |
| <b>Correct</b>   | Before signing the contract, an individual <del>must</del> complete the requirements set forth in § 34-35-36.  |

Use "must" rather than "shall" with the passive voice.

|                  |                                                                             |
|------------------|-----------------------------------------------------------------------------|
| <b>Incorrect</b> | The contract <del>shall</del> be approved by a unanimous vote of the board. |
| <b>Correct</b>   | The contract <del>must</del> be approved by a unanimous vote of the board.  |

Use "must" rather than "shall" when the actor is not specified or when the requirement is imposed on an inanimate object.

|                  |                                                                  |
|------------------|------------------------------------------------------------------|
| <b>Incorrect</b> | All documents <del>shall</del> be in a portable document format. |
| <b>Correct</b>   | All documents <del>must</del> be in a portable document format.  |

## **Section 6. Active Voice**

In drafting, the active voice is preferred because it clearly indicates the subject, *i.e.*, the actor, individual, or entity who is authorized or directed to act. The subject is then followed by a verb and an object.

|                     |                                                                                          |
|---------------------|------------------------------------------------------------------------------------------|
| <b>Active voice</b> | The <u>secretary</u> shall <u>compile</u> a <u>report</u> .<br>(subject) (verb) (object) |
|---------------------|------------------------------------------------------------------------------------------|

The passive voice generally focuses on the receiver of the action. The passive voice results in the object being placed first and then followed by a verb and a subject.

|                      |                                                                                                  |
|----------------------|--------------------------------------------------------------------------------------------------|
| <b>Passive voice</b> | The <u>report</u> must be <u>compiled</u> by the <u>secretary</u> .<br>(object) (verb) (subject) |
|----------------------|--------------------------------------------------------------------------------------------------|

Using the passive voice can create an ambiguity when it fails to identify a subject.

|                      |                                                                                   |
|----------------------|-----------------------------------------------------------------------------------|
| <b>Passive voice</b> | The <u>report</u> must be <u>compiled</u> annually.<br>(object) (verb) (subject?) |
|----------------------|-----------------------------------------------------------------------------------|

The passive voice may be considered by a drafter if alternative choices would result in an awkward sentence construction.

## **Section 7. Singular vs. Plural**

Use a singular noun instead of a plural noun. [SDCL § 2-14-6](#) provides that words used in the singular number include the plural, and vice-versa. Ensure that the verb agrees with the subject in number.

|                  |                                                                                                          |
|------------------|----------------------------------------------------------------------------------------------------------|
| <b>Incorrect</b> | <u>Defendants</u> in <u>criminal actions</u> <u>are</u> presumed innocent until the contrary is proven.  |
| <b>Correct</b>   | <u>A defendant</u> in <u>a criminal action</u> <u>is</u> presumed innocent until the contrary is proven. |

## **Section 8. Plain Language**

Each sentence should be clear and concise. Use short, simple words whenever possible. Avoid colloquialisms, jargon, legalisms, and redundancies.

Adjectives are appropriate if modification of the noun is contextually necessary, *e.g.*, "pregnant" female, "unemancipated" minor.

Avoid adjectives that are redundant or emphatic, *e.g.*, "actual" amount, "real" results, "total" area, "true" distance.

Except as otherwise provided, avoid adjectives that constitute value-based judgments, *e.g.*, "adequate" supply, "prompt" response, "reasonable" effort, "sufficient" number. These adjectives are incapable of being measured and may be understood differently.

If the drafter determines that the sentence or section cannot be reworded and the use of a value-based judgment is necessary, the drafter should insert a definition that establishes parameters or measurements. Generally, the definition will apply to a phrase, not just the adjective.

### **Section 1. That a NEW SECTION be added to chapter 99-10:**

For purposes of this section, "exercised a reasonable effort" means that the secretary attempted to contact the applicant, by phone, on at least three occasions.

 **DRAFTING TIP:** Ensure that the placement of an adjective does not result in an unintended ambiguity, *e.g.*, "an *unmarried* student, parent, or pregnant woman" vs. "a parent, pregnant woman, or *unmarried* student."

## **Section 9. Root Words and Redundant Words**

At times, word choices may be clear and concise, but simply inelegant. This is often the result of using, in proximity, words that have the same root.

|              |                                                                                                                                                            |
|--------------|------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Avoid</b> | The applicant shall apply . . . .<br>The employer shall terminate the employment of the employee . . . .<br>The licensee shall display the license . . . . |
|--------------|------------------------------------------------------------------------------------------------------------------------------------------------------------|

Another cause of inelegance is redundancy - i.e., the needless repetition of words or phrases.

|              |                                                                                               |
|--------------|-----------------------------------------------------------------------------------------------|
| <b>Avoid</b> | The county treasurer of the county . . . .<br>The school board of the school district . . . . |
|--------------|-----------------------------------------------------------------------------------------------|

Pay attention to unnecessary verbiage in lead lines. In the example below, there is no need to add the phrase "as follows." The list, as set forth in the subdivisions, completes the sentence.

|                  |                                                                                                                                        |
|------------------|----------------------------------------------------------------------------------------------------------------------------------------|
| <b>Incorrect</b> | The assessment is <i>as follows</i> :<br>(1) Ten dollars per cat;<br>(2) Fifteen dollars per dog; and<br>(3) Twenty dollars per horse. |
| <b>Correct</b>   | The assessment is:<br>(1) Ten dollars per cat;<br>(2) Fifteen dollars per dog; and<br>(3) Twenty dollars per horse.                    |

---

---

 **DRAFTING TIP:** Ensure that the verbiage selected for inclusion in a lead line is appropriate for each ensuing subdivision.

---

---

## **Section 10. Multi-word Reference**

If a section pertains to a person, place, or thing, the initial reference should include the full, formal title. Additional references within that same section may be shortened, provided the intent of the section is not compromised.

### **Section 8. That a NEW SECTION be added to chapter 99-11:**

The Centennial Restoration Commission shall meet once every calendar quarter.  
The commission shall approve all renovation requests.

---

---

 **DRAFTING TIP:** Ensure that shortened references do not result in unintended ambiguity—e.g., "The Board of Regents shall meet with the Board of Trustees of the South Dakota Retirement System and review all reports compiled by the board."

Which board is compiling the report?

---

---

## **Section 11. Acronyms and Initialisms**

An acronym shortens a phrase by combining the first letter of each word in a phrase to form a pronounceable word, *e.g.*, AIDS, ERISA, NASA.

An initialism is an acronym that is pronounced as individual letters, *e.g.*, CDC, DNA, FBI, HIV.

Although commonly used in many types of writing, acronyms and initialisms are not encouraged in the drafting of bills. If an acronym or an initialism is to be used, the drafter should ensure that the abbreviation is more likely to be recognized than the full term. This may be done by verifying inclusion of the acronym or initialism in a standard dictionary. In addition, the drafter must define the acronym or initialism. If placed in a section with multiple definitions, the acronym or initialism must appear in alphabetical order, according to its letters.

Do not include a parenthetical acronym or initialism after a name.

|              |                                                                                                          |
|--------------|----------------------------------------------------------------------------------------------------------|
| <b>Avoid</b> | Personnel employed by the United States Immigration and Customs Enforcement Agency (ICE) may not . . . . |
|--------------|----------------------------------------------------------------------------------------------------------|

---

---

 **DRAFTING TIP:** Certain abbreviations that began as acronyms or initialisms have, through the use of trademarks, become proper nouns -- *e.g.*, ACT, CLEP, SAT.

---

---

---

---

 **DRAFTING TIP:** The initialism SDCL is not used in the body of a bill. The proper reference is to a specific title, chapter, or section. When referencing an existing SDCL section, use the section symbol - *e.g.*, "As set forth in § 12-13-14 . . . ."

When referencing a proposed section, use the word "section," not the symbol -- *e.g.*, "As set forth in section 3 of this Act . . . ."

---

---

## **Section 12. Lists**

Lists are one way in which dense blocks of text can be broken down into smaller, simpler, and more manageable components, thereby enhancing readability and comprehensibility. Lists may be incorporated as subdivisions or as subsections. When appropriate, lists should be placed in alphabetical order or in the case of activities, in chronological order.

|                  |                                                                                                                                                                                                                               |
|------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Incorrect</b> | A park license is required for entry into Sandy Shore Recreation Area, Farm Island Recreation Area, Randall Creek Recreation Area, Little Bend Recreation Area, Angostura Recreation Area, and Pickerel Lake Recreation Area. |
| <b>Correct</b>   | A park license is required for entry into the following recreation areas:<br>(1) Angostura;<br>(2) Farm Island;<br>(3) Little Bend;<br>(4) Pickerel Lake;<br>(5) Randall Creek; and<br>(6) Sandy Shore.                       |

---

---

 **DRAFTING TIP:** Whenever subdivisions and subsections are used, the conjunction "and" or the conjunction "or" is required after the penultimate item.

---

---

## **Section 13. Capitalization**

| <b>References to be Capitalized</b>   | <b>Examples</b>                                                                                                                                                                                                                                                                       |
|---------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Chief executive of this state         | Governor                                                                                                                                                                                                                                                                              |
| Committee name                        | Emergency Services Committee                                                                                                                                                                                                                                                          |
| Constitution                          | Constitution of the State of South Dakota                                                                                                                                                                                                                                             |
| Corporate entity                      | Midcontinent Communications                                                                                                                                                                                                                                                           |
| Country                               | Ireland                                                                                                                                                                                                                                                                               |
| Criminal classification               | Class 2 felony                                                                                                                                                                                                                                                                        |
| Division within a governmental agency | Division of Insurance                                                                                                                                                                                                                                                                 |
| Federal act                           | Securities and Exchange Act of 1934                                                                                                                                                                                                                                                   |
| Governmental agency or entity         | Department of Revenue<br>Executive Board of the Legislative<br>Research Council<br>House of Representatives<br>Legislature<br>Office of the President of the United States<br>Senate<br>State Board of Pharmacy<br>Unified Judicial System<br>United States Department of Agriculture |
| Holiday                               | Thanksgiving Day<br>Father's Day                                                                                                                                                                                                                                                      |
| Individual's name                     | Martin Luther King Jr.                                                                                                                                                                                                                                                                |
| Institution                           | University of South Dakota                                                                                                                                                                                                                                                            |
| Language                              | Lakota<br>Spanish                                                                                                                                                                                                                                                                     |
| Month                                 | April                                                                                                                                                                                                                                                                                 |
| Nationality                           | Canadian                                                                                                                                                                                                                                                                              |

| <b>References NOT to be capitalized</b> | <b>Examples</b>                                                                                    |
|-----------------------------------------|----------------------------------------------------------------------------------------------------|
| Federal official                        | chairman<br>president of the United States<br>secretary<br>speaker of the House of Representatives |
| Federal program                         | medicaid<br>social security                                                                        |

|                                          |                                                                                                              |
|------------------------------------------|--------------------------------------------------------------------------------------------------------------|
| Political subdivision's governing entity | board of county commissioners<br>board of directors of the irrigation district<br>board of a school district |
| Political subdivision's official         | county commissioner<br>county sheriff<br>mayor<br>township supervisor                                        |
| SDCL organizational units                | chapter<br>section<br>subdivision<br>subsection<br>title                                                     |
| State fund                               | brand fund<br>motor vehicle fund<br>water and environment fund                                               |
| State legislative leader                 | president pro tempore of the Senate<br>speaker of the House of Representatives                               |
| State official                           | chief justice<br>executive director<br>lieutenant governor<br>secretary of education<br>state treasurer      |
| State program                            | medical assistance program<br>24/7 sobriety program                                                          |

## **Section 14. Inserting Examples**

When setting forth a list, do not follow the word "including" with the phrase "but not limited to . . . ." The plain definition of the word "including" is not exhaustive.

If a section contains a general statement, examples should not be included.

|                  |                                                                                                                                                                                                                                                                               |
|------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Incorrect</b> | Each day, the staff shall clean the facility, including the lunchroom, playroom, and restroom.                                                                                                                                                                                |
| <b>Correct</b>   | Each day, the staff shall clean the facility.<br><i>i.e., The staff shall clean the "entire" facility.</i><br><br>Each day, the staff shall clean the facility's lunchroom, playroom, and restroom.<br><i>i.e., The staff shall clean the "listed areas" of the facility.</i> |

## **Section 15. Gender**

When referencing an individual or a class of individuals, select words that are both descriptive and gender neutral.

|                  |                                                                         |
|------------------|-------------------------------------------------------------------------|
| <b>Incorrect</b> | He shall designate an alternate contact on his application.             |
| <b>Correct</b>   | The individual shall designate an alternate contact on the application. |

Do not use "they" or "their" as a single pronoun.

|                  |                                                                            |
|------------------|----------------------------------------------------------------------------|
| <b>Incorrect</b> | An applicant shall designate their alternate contact on their application. |
| <b>Correct</b>   | The individual shall designate an alternate contact on the application.    |

 **DRAFTING TIP:** If a gender-specific term is encountered in the drafting process, amend the section to reflect gender neutrality.

## **Section 16. "Individual-first" Language**

"Individual-first" language emphasizes the individual before the disability.

|                  |                                                                                           |
|------------------|-------------------------------------------------------------------------------------------|
| <b>Incorrect</b> | The developmentally disabled.<br>The visually impaired.                                   |
| <b>Correct</b>   | An individual with a developmental disability.<br>An individual with a visual impairment. |

Avoid making the individual synonymous with the disability or medical status, *e.g.*, the autistic, the epileptic, the quadriplegic, the unvaccinated.

## **Section 17. Referencing Entities or Items by Name**

[S.D. Const., Art. III, § 23](#) prohibits the Legislature from enacting any private or special laws. In particular, the Constitution prohibits "[g]ranting to an individual, association or corporation any special or exclusive privileged, immunity or franchise . . . ."

Rather than naming a specific entity or item, a drafter should consider ways in which the entity or item could be described, so the provision is applicable to others who meet the stated criteria.

|                  |                                                                                                                       |
|------------------|-----------------------------------------------------------------------------------------------------------------------|
| <b>Incorrect</b> | Each applicant must be certified by the National Association of Bill Drafters.                                        |
| <b>Correct</b>   | Each applicant must be certified by a national association that certifies bill drafters and is approved by the board. |

## **Section 18. Hyphenation**

When two or more words are combined to function as a single adjective in describing a noun, the result is a compound word. The compound word may appear as one word, *e.g.*, a "healthcare" directive, or as a hyphenated word, *e.g.*, a "health-related" directive.

While not all dictionaries are in agreement as to the display of compound words, it is generally acceptable to add a hyphen in the following circumstances:

| <b>When to Hyphenate</b>                                                      | <b>Examples</b>                              |
|-------------------------------------------------------------------------------|----------------------------------------------|
| When joining two or more words that serve as a single adjective before a noun | a two-way street<br>an over-the-counter drug |
| When writing compound numbers                                                 | forty-seven percent                          |
| When writing fractions                                                        | one-half                                     |
| When necessary to avoid confusion                                             | re-sign an application                       |
| When necessary to avoid an awkward combination of letters                     | semi-independent<br>shell-like               |
| When using the prefix "all"                                                   | all-inclusive                                |
| When using the prefix "ex" if the prefix means "former"                       | ex-husband<br>ex-member                      |
| When using the prefix "self"                                                  | self-inflicted                               |
| When a prefix is followed by a capitalized word                               | anti-American<br>pre-Civil War               |
| When a prefix is followed by numbers or letters                               | mid-1980's<br>pre-AIDS                       |
| When a noun is followed by the suffix "elect"                                 | senator-elect                                |

 **DRAFTING TIP:** Do not use a hyphen when the compound modifier consists of an adverb ending in *-ly* and an adjective, *e.g.*, wholly owned subsidiary, locally owned market, heavily travelled road.

 **DRAFTING TIP:** To answer questions about hyphenation, consult a widely recognized dictionary or style manual.

## **Section 19. Age**

If age is used to describe a noun, and if the age comes *before* the noun, hyphenate the age-related words as if they were a single word.

|                |                                          |
|----------------|------------------------------------------|
| <b>Correct</b> | If the twenty-one-year-old student . . . |
|----------------|------------------------------------------|

If age is used to describe a noun, and if the age comes *after* the noun, use a hyphen only between the numbers.

|                |                                              |
|----------------|----------------------------------------------|
| <b>Correct</b> | If the student is twenty-one years old . . . |
|----------------|----------------------------------------------|

 **DRAFTING TIP:** When referencing age, avoid the use of phrases such as "up to" or "over the age of."

Does "up to twenty-one" mean the age of twenty plus three hundred and sixty-four days, or does it mean the age of twenty-one plus three hundred and sixty-four days?

## **Section 20. Numbers**

Except as otherwise provided, spell out numbers used in the body of a bill.

| <b>Incorrect</b>   | <b>Correct</b>                    |
|--------------------|-----------------------------------|
| within 10 days     | within ten days                   |
| fixed at 25%       | fixed at twenty-five percent      |
| not less than \$25 | not less than twenty-five dollars |
| at least 2/3       | at least two-thirds               |

Use formal, rather than colloquial, references to numbers.

| Incorrect                        | Correct                                    |
|----------------------------------|--------------------------------------------|
| more than fifteen hundred pounds | more than one thousand five hundred pounds |

Avoid inserting "and" between whole number place values.

| Incorrect                             | Correct                           |
|---------------------------------------|-----------------------------------|
| more than one hundred and sixty acres | more than one hundred sixty acres |

Use numerals for the following:

| Category                         | Examples                                                |
|----------------------------------|---------------------------------------------------------|
| Appropriations                   | There is appropriated from the general fund \$1,200,000 |
| Criminal penalty classifications | Class 6 felony<br>Class 2 misdemeanor                   |
| Specific dates                   | This Act expires December 31, 2029                      |
| Formulas                         | Multiply the quotient by 0.125                          |
| Time                             | Before 5:00 p.m.                                        |

 **DRAFTING TIP:** When referencing a percentage, use the word "percent," not the symbol.

## **Section 21. Money**

Monetary amounts are to be expressed numerically whenever an appropriation is being made and in concurrent resolutions, House or Senate resolutions, and commemorations. In all other instances, monetary amounts are to be expressed using words -- formally. Do not use colloquial verbiage such as "fifteen hundred dollars" in place of "one thousand five hundred dollars."

| Incorrect                                           | Correct                                                       |
|-----------------------------------------------------|---------------------------------------------------------------|
| The application fee is \$100.                       | The application fee is one hundred dollars.                   |
| The tuition may not exceed fifteen hundred dollars. | The tuition may not exceed one thousand five hundred dollars. |

## **Section 22. Date and Time**

Dates are written as follows:

|                                            |                                                               |
|--------------------------------------------|---------------------------------------------------------------|
| <b>If a specific year is included:</b>     | December 31, 2029                                             |
| <b>If a specific year is not included:</b> | On or before July first<br>December thirty-first of each year |

Time is written as a numeral, followed by "a.m." or "p.m." Do not use "o'clock."

|                  |                      |
|------------------|----------------------|
| <b>Incorrect</b> | Before five o'clock. |
| <b>Correct</b>   | Before 5:00 p.m.     |

 **DRAFTING TIP:** The abbreviation "a.m." means ante meridiem, *i.e.*, before midday. The abbreviation "p.m." means post meridiem, *i.e.*, after midday. Consequently, referring to 12 a.m. or 12 p.m. is both confusing and incorrect. In the interest of clarity, simply refer to noon or midnight.

## **Section 23. Using Proper Punctuation**

The rules of punctuation that are applicable to the drafting of bills are generally the same as those that are applicable to formal writing.

| <b>Rules Regarding the Use of a Comma</b>                                                                                                    | <b>Examples</b>                                                                      |
|----------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------|
| Use a comma to separate independent clauses joined by one of the following coordinating conjunctions: <i>and, but, for, or, nor, so, yet</i> | This provision applies to children, but that provision applies to adults.            |
| Use a comma after an introductory word or phrase                                                                                             | Beginning July first, the board shall meet at least once each month.                 |
| Use a comma to set off clauses or phrases                                                                                                    | The board, which is elected annually, shall employ a director.                       |
| Use a comma to separate three or more items in a list                                                                                        | The secretary shall provide each participant with boots, a coat, a hat, and mittens. |
| Use a comma between two or more coordinate adjectives that describe the same noun                                                            | The auditor may reserve the large, rectangular room.                                 |

---

---

 **DRAFTING TIP:** Use a serial comma, also known as an Oxford comma or a Harvard comma, before the final conjunction in a list -- e.g., "The flag must be red, white, and blue."

---

---

---

---

 **DRAFTING TIP:** If a sentence is ambiguous, determine whether a comma can provide sufficient clarification, or whether the sentence needs to be redrafted -- e.g., "The secretary determined that twenty people were eligible to vote in the election on April 15, 2024."

Did the election occur on the stated date or was that when the secretary made the determination?

---

---

---

---

 **DRAFTING TIP:** If placing a list within a sentence would require the use of multiple commas to separate the clauses and items within the clauses, one might consider utilizing semicolons -- e.g., "The manager shall offer to each resident, on a daily basis, scrambled eggs and fried eggs; three types of milk, including whole, skim, and chocolate; and whole wheat bread, croissants, and blueberry muffins."

A better option would be to utilize a subdivision or a subsection.

"The manager shall offer to each resident, on a daily basis:

- (1) Scrambled eggs and fried eggs;
  - (2) Three types of milk, including whole, skim, and chocolate; and
  - (3) Whole wheat bread, croissants, and blueberry muffins."
- 
- 

| Rules Regarding Other Punctuation                                                                                                                                                                                                        | Examples                                                                                                                                                                                            |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Use a colon (:) to introduce subdivisions and subsections<br><br>Use a semicolon (;) at the conclusion of each subdivision or subsection, except the final one in the list<br><br>Use a period after the final subdivision or subsection | <u>The director shall:</u><br><u>(1) Schedule the hearing;</u><br><u>(2) Notify the participants; and</u><br><u>(3) Issue a press release.</u>                                                      |
| Use quotation marks around words or phrases being defined                                                                                                                                                                                | <u>Terms used in this chapter mean:</u><br><u>(1) "Game," all wild mammals or birds</u><br><u>. . . .</u><br><br><u>For purposes of this section, the term</u><br><u>"artificial" means . . . .</u> |

## **Section 24. Quotations**

Occasionally, a statute will, through the use of quotation marks, set forth the precise text that must be inserted into a contract or correspondence, or used in a notice or on signage. This mandatory, word-for-word reproduction should be avoided, in part because it allows for no flexibility in the case of an unforeseen event or unintended consequence.

Instead, a bill should precisely describe the necessary content without resorting to a direct quotation.

|                  |                                                                                                                         |
|------------------|-------------------------------------------------------------------------------------------------------------------------|
| <b>Incorrect</b> | Each facility shall post the following notice:<br><br>"This facility does not tolerate abuse, bullying, or harassment." |
| <b>Correct</b>   | Each facility shall post a notice stating that it does not tolerate abuse, bullying, or harassment.                     |

## **Section 25. Referencing Existing Law**

| <b>Referencing Existing Law</b>                                | <b>Examples</b>                                                                                                              |
|----------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------|
| A title other than that to which the current section belongs   | As provided for in title 42                                                                                                  |
| The title in which the current section is or will be placed    | As provided for in this title                                                                                                |
| A chapter other than that to which the current section belongs | As provided for in chapter 20-21                                                                                             |
| The chapter in which the current section is or will be placed  | As provided for in this chapter                                                                                              |
| One section                                                    | § 2-14-1                                                                                                                     |
| Two sections                                                   | §§ 2-14-2 and 3-16-4<br>§ 5-12-4 or 7-16-2                                                                                   |
| More than two sections                                         | §§ 2-14-3 to 2-14-9, inclusive<br>§§ 2-14-2, 3-24-5, and 6-16-8<br>§§ 2-14-3 to 2-14-9, inclusive, and 7-11-13               |
| One subdivision                                                | subdivision 2-14-2(18)                                                                                                       |
| Two subdivisions                                               | subdivisions 2-14-2(18) and (19)<br>subdivision 2-14-2(18) or (19)                                                           |
| More than two subdivisions                                     | subdivisions 2-14-3(2) to (9), inclusive<br>subdivisions 2-14-2(18), (21), and (30)<br>subdivision 2-14-2(18), (21), or (30) |
| One subsection                                                 | subsection 2-14-2(18)(d)                                                                                                     |
| Two subsections                                                | subsections 2-14-2(18)(e) and (19)(g)<br>subsections 2-14-2(18)(e) or (19)(g)                                                |

|                                                |                                                                                                                                                                                         |
|------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| More than two subsections                      | subsections 2-14-2(18)(a) to (g), inclusive<br>subsections 2-14-2(18)(a), (b), and (g)<br>subsection 2-14-2(18)(a), (b), or (g)                                                         |
| A session law                                  | 2023 Session Laws, chapter 5, § 1                                                                                                                                                       |
| Legislation enacted during the current session | Senate Bill 61, as enacted by the One Hundred First Session of the South Dakota Legislature                                                                                             |
| A constitutional section                       | S.D. Const., Art. XVIII, § 8<br>U.S. Const., Art. IV, § 3                                                                                                                               |
| A federal law                                  | 42 U.S.C. § 1983 (January 1, 2026)                                                                                                                                                      |
| Two sections of federal law                    | 42 U.S.C. §§ 1983 and 1984 (January 1, 2026)<br>42 U.S.C. § 1983 or 1984 (January 1, 2026)                                                                                              |
| More than two sections of federal law          | 42 U.S.C. §§ 1983 to 1997, inclusive (January 1, 2026)<br>42 U.S.C. §§ 1983, 1984, and 1997 (January 1, 2026)<br>42 U.S.C. § 1983, 1984, or 1997 (January 1, 2026)                      |
| A federal regulation                           | 2 C.F.R. § 200.423 (October 31, 2024)                                                                                                                                                   |
| Two federal regulations                        | 2 C.F.R. §§ 200.423 and 205.89 (October 31, 2024)<br>2 C.F.R. § 200.423 or 205.89 (October 31, 2024)                                                                                    |
| More than two federal regulations              | 2 C.F.R. §§ 200.423 to 207.23, inclusive (October 31, 2024)<br>2 C.F.R. §§ 200.423, 200.429, and 207.23 (October 31, 2024)<br>2 C.F.R. § 200.423, 200.429, or 207.23 (October 31, 2024) |

When citing a federal statute or regulation in a bill, it is necessary to include a date that references the version being cited. This might be the date on which the federal statute or regulation was enacted. It might also be a more recent date to indicate that the reference is to the version, as of a stated date. Failing to include the date could result in a court determining that there has been an unconstitutional delegation of legislative power. See *Independent Community Bankers Ass'n of South Dakota, Inc. v. State*, 346 N.W.2d 737, 744 (S.D. 1984).

When citing a section of the Internal Revenue Code, reference the appropriate U.S. Code cite, rather than the I.R.C.

|                  |                                    |
|------------------|------------------------------------|
| <b>Incorrect</b> | I.R.C. § 1371                      |
| <b>Correct</b>   | 26 U.S.C. § 1371 (January 1, 2026) |

---

---

 **DRAFTING TIP:** The symbol "§" is used within a sentence to reference an existing section of the SDCL. The word "section" is used when beginning a sentence.

---

---

For any other citation format, consult *The Bluebook: A Uniform System of Citation*.

A drafter may reiterate the laws of another state, using South Dakota form and style. A drafter may not merely incorporate the laws of another state by reference.

## **Section 26. Cross-referencing a "Chapter" vs. an "Act"**

In determining whether the proper cross-reference is to a "chapter" or an "Act," a drafter must examine the intended scope of the verbiage being drafted.

Will the verbiage apply to an entire existing chapter or only certain sections of that existing chapter? If the chapter is being created in the bill draft, will the verbiage apply to all sections being created or only to certain sections being created?

If it is intended that a section, whether new or amended, is applicable to the existing chapter in which the section will be placed, the cross-reference should be to "this chapter."

### **Section 1. That a NEW SECTION be added to chapter 99-99:**

An individual under the age of eighteen may not perform any functions otherwise permitted by this chapter.

### **Section 2. That § 99-99-15 be AMENDED:**

An individual who is eighteen years of age or older may engage in the function without obtaining a license. An individual under the age of eighteen may not perform any functions otherwise permitted by this chapter.

If it is intended that a new section or an amended section is applicable to an existing chapter other than the one in which the section will be placed, the cross-reference should be to the specific chapter.

**Section 3. That § 99-99-15 be AMENDED:**

An individual who is eighteen years of age or older may engage in the function without obtaining a license. An individual under the age of eighteen may not perform any functions otherwise permitted by chapter 87-86.

If it is intended that a new section or an amended section is applicable only to certain sections of an existing chapter, the cross-references should be to the numbered SDCL sections.

**Section 4. That a NEW SECTION be added to chapter 99-99:**

An individual under the age of eighteen may not perform any functions otherwise permitted by §§ 29-98-3 to 29-98-5, inclusive.

In all other instances, the cross-references should be to "this Act" or to specific sections of "this Act."

**Section 5. That a NEW SECTION be added to chapter 99-99:**

An individual under the age of eighteen may not perform any functions otherwise permitted by this Act.

**Section 6. That a NEW SECTION be added to chapter 99-99:**

An individual under the age of eighteen may not perform any functions otherwise permitted by sections 3 to 7, inclusive, of this Act.

## **Section 27. Cross-referencing "Subdivisions" and "Subsections"**

If it is necessary to cross-reference an existing subdivision, the cross-reference should be as follows:

**Section 7. That a NEW SECTION be added to chapter 99-99:**

An individual under the age of eighteen may not perform any functions otherwise permitted by subdivision 12-14-16(3).

If it is necessary to cross-reference a subdivision of a section that is being created in the bill, the cross-reference should be as follows:

**Section 8. That a NEW SECTION be added to chapter 99-99:**

An individual under the age of eighteen may not perform any functions otherwise permitted by subdivision (9) of section 3 of this Act.

 **DRAFTING TIP:** Providing a cross-reference to a section is generally sufficient. Limit the cross-referencing of subdivisions and subsections to those instances in which clarity requires that level of specificity.

A cross-reference to subdivision 18-19-16(5) may be correct until § 18-19-16 is amended to add or delete a subdivision. At that point, the cross-referenced content is no longer found in subdivision (5), and any section that cross-referenced subdivision (5) will need to be amended.

If a bill includes the phrase "as provided for in this Act," without any limitation on or designation of specific sections, the bill will be codified with a list of all sections in the bill.

 **DRAFTING TIP:** If an amendment adds or removes a section, the bill drafting software will automatically renumber the remaining *sections* of the bill. The software will not renumber internal references or cross-references. Those must be checked and corrected by the drafter.

## **Section 28. Establishing Interest Rates**

The Legislature has adopted a uniform method of referencing interest rates. The rates, as found in [SDCL § 54-3-16](#), are shown below.

|                   |                                                  |
|-------------------|--------------------------------------------------|
| <b>Category A</b> | Four and one-half percent per year               |
| <b>Category B</b> | Ten percent per year                             |
| <b>Category C</b> | Twelve percent per year                          |
| <b>Category D</b> | One percent per month or fraction thereof        |
| <b>Category E</b> | Four percent per year                            |
| <b>Category F</b> | Fifteen percent per year                         |
| <b>Category G</b> | Five-sixth percent per month or fraction thereof |

The reference is generally to "interest payable at the Category D rate, as established in [§ 54-3-16](#)."

## PART VI. WORD PREFERENCES

### Section 1. Avoiding Certain Words and Phrases

Legislation should be written in a manner that is clear, concise, and precise. Avoid colloquial or legalistic expressions. Avoid using duplicative or excess verbiage.

| Avoid                              | Preferable                                   |
|------------------------------------|----------------------------------------------|
| absolutely null and void           | void                                         |
| advance notice                     | notice                                       |
| afforded or accorded               | given                                        |
| and/or                             | A and B<br>A or B<br>A or B, or both         |
| any and all                        | any<br>all                                   |
| at such time as<br>at the time of  | when                                         |
| attorney and counselor at law      | attorney                                     |
| authorize and empower              | may                                          |
| be and the same is hereby          | is                                           |
| bonds, checks, drafts, notes, etc. | evidence of indebtedness                     |
| can                                | may                                          |
| carry out                          | complete<br>execute                          |
| collaborate together               | collaborate                                  |
| constitute and appoint             | appoint                                      |
| deemed to include                  | includes                                     |
| during such time as                | while                                        |
| during the course of               | during                                       |
| each and every                     | each<br>every                                |
| enter into a contract with         | contract with                                |
| following section                  | section X of this Act                        |
| for the duration of                | during                                       |
| for the reason that                | because                                      |
| foreign imports                    | imports                                      |
| from July first                    | after June thirtieth<br>beginning July first |
| full and complete                  | full                                         |

|                                                |                                       |
|------------------------------------------------|---------------------------------------|
| give consideration to                          | consider                              |
| give recognition to                            | recognize                             |
| have need of                                   | need                                  |
| however                                        | except<br>notwithstanding<br>provided |
| in case<br>in cases which<br>in the event that | if                                    |
| inquire                                        | ask                                   |
| is applicable to                               | applies                               |
| is authorized to                               | may                                   |
| is binding upon                                | binds                                 |
| is defined and shall be construed to mean      | means                                 |
| is directed to                                 | shall                                 |
| is empowered to                                | may                                   |
| is entitled to                                 | may                                   |
| is prohibited from                             | may not                               |
| is required to                                 | shall                                 |
| it is lawful to                                | may                                   |
| law passed                                     | law enacted                           |
| make application                               | apply                                 |
| make a determination                           | decide<br>determine                   |
| make payment                                   | pay                                   |
| matter transmitted through the mail            | mail                                  |
| member of a partnership                        | partner                               |
| no later than June thirtieth                   | before July first                     |
| null and void                                  | void                                  |
| ordered, adjudged, and decreed                 | ordered                               |
| past experience                                | experience                            |
| past history                                   | history                               |
| period of time                                 | period                                |
| protest against                                | protest                               |
| revert back                                    | revert                                |
| said                                           | that<br>the<br>those                  |
| shall not                                      | may not                               |

|                         |               |
|-------------------------|---------------|
| should                  | must<br>shall |
| sole and exclusive      | exclusive     |
| State of South Dakota   | this state    |
| subsequent to           | after         |
| such                    | the           |
| under the provisions of | pursuant to   |
| until such time as      | until         |

## **Section 2. Using "Damage" or "Injury"**

Damage is harm done to personal property or real property. Injury is harm suffered by an individual due to an act or omission of another.

|                  |                                                                                                                                                                                                                     |
|------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Incorrect</b> | <p>The driver must call 911 if an accident results in <del>damage</del> to property or an individual.</p> <p>The driver must call 911 if an accident results in <del>injury</del> to property or an individual.</p> |
| <b>Correct</b>   | <p>The driver must call 911 if an accident results in <del>damage to property</del> or <del>injury to an individual</del>.</p>                                                                                      |

## **Section 3. Using "Duty" or "Power"**

"Duty" is the obligation to act. "Power" is the authority to act. When drafting, it is important to distinguish between that which *must* be done and that which *may* be done. Granting the "duty and power" or the "power and duty" to act creates ambiguity. Use a sentence or section to *require* the performance of certain acts. Use a separate sentence or section to *authorize* the performance of certain acts. Utilize the words "shall" and "may."

|                  |                                                                                                                                                                              |
|------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Incorrect</b> | <p>The mayor has the duty and power to:</p> <p>(1) Serve as the presiding officer of the council; and</p> <p>(2) Appoint three individuals to serve as advisory members.</p> |
| <b>Correct</b>   | <p>The mayor <del>shall</del> serve as the presiding officer of the council.</p> <p>The mayor <del>may</del> appoint three individuals to serve as advisory members.</p>     |

 **DRAFTING TIP:** If a constitutional officer (the Governor, attorney general, auditor, commissioner of school and public lands, secretary of state, or treasurer) is to be directed or authorized to act, assign the respective duty or power to the constitutional officer, not to the office of the constitutional officer.

-- e.g., "The attorney general shall . . . ."

## **Section 4. Using "Ensure" or "Insure"**

"Ensure" means to make certain that something will or will not occur. "Insure" means to protect against damage, injury, or loss, or to obtain insurance.

|                |                                                                                     |
|----------------|-------------------------------------------------------------------------------------|
| <b>Correct</b> | The owner shall <del>insure</del> the property to ensure solvency following a fire. |
|----------------|-------------------------------------------------------------------------------------|

## **Section 5. Using "Farther" or "Further"**

"Farther" is an adverb used to denote physical distance. "Further" is used to denote figurative distance such as degree, quantity, or time.

|                |                                                                          |
|----------------|--------------------------------------------------------------------------|
| <b>Correct</b> | The student who lives <del>farther</del> from the bus stop . . . .       |
| <b>Correct</b> | The secretary shall provide <del>further</del> information upon request. |

## **Section 6. Using "Fewer" or "Less"**

Whether to use "fewer" or "less" depends on the noun that is being modified. If the noun is countable or plural, use "fewer."

|                |                                                                          |
|----------------|--------------------------------------------------------------------------|
| <b>Correct</b> | The institution has <del>fewer</del> buildings and <del>less</del> land. |
|----------------|--------------------------------------------------------------------------|

## **Section 7. Using "Healthcare" or "Health care"**

"Healthcare" refers to a system of medical professionals, services, and facilities associated with the diagnosis, treatment, and prevention of disease. "Health care" refers to specific actions, efforts, and interventions taken to maintain or improve an individual's health.

|                |                                                                                                                                         |
|----------------|-----------------------------------------------------------------------------------------------------------------------------------------|
| <b>Correct</b> | <del>Healthcare</del> providers support outreach programs that ensure individualized <del>health care</del> for patients with diabetes. |
|----------------|-----------------------------------------------------------------------------------------------------------------------------------------|

## **Section 8. Using "In accordance with" or "Pursuant to"**

Phrases such as "in accordance with" or "pursuant to" are used to reference criteria set forth in another provision of law. Either phrase is acceptable, provided it is used consistently within the bill draft.

 **DRAFTING TIP:** A drafter should always be aware of word choices and usage in surrounding sections and throughout the chapter.

## **Section 9. Using "Individual" or "Person"**

"Person" is defined in [SDCL § 2-14-2](#) as including "natural persons, partnerships, associations, cooperative corporations, limited liability companies, and corporations . . . ."

If a provision is to apply only to a natural person, *i.e.*, a human being, the term "individual" should be used.

|                |                                                                                                       |
|----------------|-------------------------------------------------------------------------------------------------------|
| <b>Correct</b> | A <del>person</del> may own the medical clinic. An <del>individual</del> may be licensed to practice. |
|----------------|-------------------------------------------------------------------------------------------------------|

## **Section 10. Using "That" or "Which"**

The choice of using "that" or "which" is dependent on the intent of the sentence.

If a phrase is intended to provide information integral to the sentence, *e.g.*, a restriction or description, use "that." A phrase using "that" is not set off by commas.

|                |                                                                               |
|----------------|-------------------------------------------------------------------------------|
| <b>Correct</b> | A fence <del>that</del> surrounds a swimming pool must be ten feet in height. |
|----------------|-------------------------------------------------------------------------------|

If a phrase is intended to provide additional but not essential information, use "which." A phrase using "which" is set off by commas.

|                |                                                                                                  |
|----------------|--------------------------------------------------------------------------------------------------|
| <b>Correct</b> | The fence, <del>which</del> may be constructed out of wood or metal, must be ten feet in height. |
|----------------|--------------------------------------------------------------------------------------------------|

 **DRAFTING TIP:** "Which" is a relative pronoun. If its antecedent is ambiguous, consider rewriting the sentence. For example: "The committee shall review an application for transfer, which must occur within thirty days."

Must the transfer or the review occur within thirty days?

## **Section 11. Using "When" or "If"**

Use "when" to reference future events that are certain to occur. Use "if" to reference future events that may or may not occur.

|                |                                                                                                                                                                                                          |
|----------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Correct</b> | <p><del>When</del> the report is compiled, the secretary must notify the Governor.</p> <p><del>If</del> the secretary determines that a report is necessary, the secretary must notify the Governor.</p> |
|----------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

## **Section 12. Using "Where" or "In Which"**

Both "where" and "in which" refer to location or position. The choice of terminology is based on the context. "Where" is a less formal term and may be used to indicate a general location or position. "In which" is a preferred, more formal term, used to specify a precise location or position.

|                |                                                                                                                                                                                                                |
|----------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Correct</b> | <p>Each prison <del>where</del> felons are incarcerated must be inspected annually.</p> <p>The maximum-security prison <del>in which</del> all dangerous felons are incarcerated must be inspected weekly.</p> |
|----------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

## **Section 13. Using "Whether" or "Whether or Not"**

When to use only the word "whether," as opposed to the phrase "whether or not," depends on that which is being modified.

If the "whether" clause is the object of a verb, then "or not" is unnecessary.

|                |                                                                                                                             |
|----------------|-----------------------------------------------------------------------------------------------------------------------------|
| <b>Correct</b> | The <del>applicant</del> shall <del>indicate</del> whether the <del>license</del> was revoked.<br>(subject) (verb) (object) |
|----------------|-----------------------------------------------------------------------------------------------------------------------------|

If the "whether" clause is the object of a preposition, "or not" is unnecessary.

|                |                                                                                                                      |
|----------------|----------------------------------------------------------------------------------------------------------------------|
| <b>Correct</b> | The board shall base the <del>decision on whether</del> the <del>error</del> was remedied.<br>(preposition) (object) |
|----------------|----------------------------------------------------------------------------------------------------------------------|

"Whether or not" is necessary when the "whether" clause modifies a verb or when the phrase "regardless of whether" could logically be used in the sentence.

|                |                                                                                             |
|----------------|---------------------------------------------------------------------------------------------|
| <b>Correct</b> | The board shall <del>vote, whether or not</del> all members are present.<br>(verb) (clause) |
|----------------|---------------------------------------------------------------------------------------------|

## **Section 14. Using "Who" or "Whom"**

"Who" and "whom" are relative pronouns. A trick for choosing whether to use *who* or *whom* is to turn the sentence around and substitute a personal pronoun. If the personal pronoun is in the nominative case, *i.e.*, I, he, she, we, or they, use "who." In the following example, because "she" signed the contract, "who" is correct.

|                |                                                                          |
|----------------|--------------------------------------------------------------------------|
| <b>Correct</b> | The physician <u>who</u> signed the contract shall notify the secretary. |
|----------------|--------------------------------------------------------------------------|

If the personal pronoun is in the objective case, *i.e.*, me, him, us, or them, use "whom." In the following example, because the contract was delivered to "him," "whom" is correct.

|                |                                                                                      |
|----------------|--------------------------------------------------------------------------------------|
| <b>Correct</b> | The individual to <u>whom</u> the contract was delivered shall notify the secretary. |
|----------------|--------------------------------------------------------------------------------------|

Prepositions are words that indicate direction, location, and spatial relationships, *e.g.*, about, by, for, to, with, etc. Because prepositions are followed by an object, use "whom."

|                |                                                                                                                                                                                                                |
|----------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Correct</b> | The patient <u>for whom</u> the insurance claim was submitted . . . .<br>The practitioner <u>by whom</u> the insurance claim was submitted . . . .<br>The patient <u>with whom</u> the physician spoke . . . . |
|----------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

## PART VII. ORDER OF WORDS AND PHRASES

### **Section 1. Positioning Words and Phrases to Avoid Unclear and Unintended Interpretations**

The English language provides drafters with a great deal of flexibility in structuring sentences. Just as drafters must be selective about their words, so too must they be selective about the order in which words and phrases are presented. Failing to do so could result in a lack of clarity, an unintended interpretation, or a nonsensical sentence.

|                  |                                                                                                                                                                                                                                                                      |
|------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Incorrect</b> | <p>The department shall construct a facility for offenders committed to the department <i>in Tripp County</i>.</p> <p><i>Is the facility to be limited to offenders who were committed in Tripp County or is the facility to be constructed in Tripp County?</i></p> |
| <b>Correct</b>   | <p>The department shall construct, <i>in Tripp County</i>, a facility for offenders committed to the department.</p> <p>The department shall construct a facility, <i>in Tripp County</i>, for offenders committed to the department.</p>                            |

|                  |                                                                                                                                                                         |
|------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Incorrect</b> | <p>A school district shall provide a <i>cold dish</i> of cereal to each student.</p> <p><i>Must the oatmeal be cold? Must the dish have been kept refrigerated?</i></p> |
| <b>Correct</b>   | <p>A school district shall provide a <i>dish of cold</i> cereal to each student.</p>                                                                                    |

|                  |                                                                                                                                                                                                                                |
|------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Incorrect</b> | <p>The homeowner shall erect a fence around the pool <i>made of wood</i>.</p> <p><i>Presumably the intent is that the homeowner erect a wooden fence as opposed to requiring any type of fence around a wooden pool.</i></p>   |
| <b>Correct</b>   | <p>The homeowner shall erect a fence <i>made of wood</i> around the pool.</p> <p>The homeowner shall erect a wooden fence around the pool.</p> <p>The homeowner shall erect, around the pool, a fence <i>made of wood</i>.</p> |

## **Section 2. The Placement of "Only"**

Regardless of whether the word "only" is used as an adverb or as an adjective, care must be taken to ensure that its placement results in the desired interpretation. Usually, this requires that the word "only" be placed as close as possible to the word being modified.

| <b>Placement</b>                              | <b>Interpretation</b>                                                                             |
|-----------------------------------------------|---------------------------------------------------------------------------------------------------|
| <u>Only</u> a candidate may attend the forum. | Attendance at the forum is limited to those who are candidates.                                   |
| A candidate may attend <u>only</u> the forum. | An individual who is a candidate may attend the forum but may not attend the dinner that evening. |
| A candidate may <u>only</u> attend the forum. | An individual who is a candidate may attend the forum but may not speak at the forum.             |

## PART VIII. FEES

Whenever a new fee is imposed, the drafter must provide for the disposition of the fee. The fee must be deposited in the general fund or in a special fund. This is accomplished by directing the appropriate official to forward the fee to the state treasurer for deposit.

|                |                                                                                                                           |
|----------------|---------------------------------------------------------------------------------------------------------------------------|
| <b>Correct</b> | The secretary shall forward any fee collected under this section to the state treasurer, for deposit in the general fund. |
|----------------|---------------------------------------------------------------------------------------------------------------------------|

|                |                                                                                                                                        |
|----------------|----------------------------------------------------------------------------------------------------------------------------------------|
| <b>Correct</b> | The director shall forward any fee collected under this section to the state treasurer, for deposit in the animal damage control fund. |
|----------------|----------------------------------------------------------------------------------------------------------------------------------------|

Special funds may be continuously appropriated to an agency for a specific purpose. That purpose is often to defray administrative expenses associated with a particular chapter or program.

|                |                                                                                                                           |
|----------------|---------------------------------------------------------------------------------------------------------------------------|
| <b>Correct</b> | The mediation fund is continuously appropriated to the board for the purpose of administering and enforcing this chapter. |
|----------------|---------------------------------------------------------------------------------------------------------------------------|

If the fee is deposited in a special fund that is to be continuously appropriated to an agency, ensure that the verbiage clearly indicates this intent.

If a fee is being amended, it is equally important to ensure that any existing verbiage meets the stated requirements pertaining to the disposition of the fee and, if applicable, the manner of appropriation.

---

---

 **DRAFTING TIP:** When referencing the general fund, it is not necessary to add the adjective "state." There is only one general fund.

---

---

## PART IX. PENALTIES

A bill that requires or prohibits a certain action will likely include a criminal or civil penalty for a violation. If a penalty is not included, [SDCL § 22-6-2](#) provides that, with certain exceptions, the requisite penalty is a Class 2 misdemeanor.

Criminal penalties are classified as felonies, misdemeanors, and petty offenses.

### **Section 1. Felonies, SDCL § 22-6-1**

|                |                                                                                                                                                                                                                     |
|----------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Class A</b> | Death or life imprisonment in a state correctional facility. A lesser sentence than death or life imprisonment may not be given for a Class A felony. In addition, a fine of fifty thousand dollars may be imposed. |
| <b>Class B</b> | Life imprisonment in a state correctional facility. A lesser sentence may not be given for a Class B felony. In addition, a fine of fifty thousand dollars may be imposed.                                          |
| <b>Class C</b> | Life imprisonment in a state correctional facility. In addition, a fine of fifty thousand dollars may be imposed.                                                                                                   |
| <b>Class 1</b> | Fifty years imprisonment in a state correctional facility. In addition, a fine of fifty thousand dollars may be imposed.                                                                                            |
| <b>Class 2</b> | Twenty-five years imprisonment in a state correctional facility. In addition, a fine of fifty thousand dollars may be imposed.                                                                                      |
| <b>Class 3</b> | Fifteen years imprisonment in a state correctional facility. In addition, a fine of thirty thousand dollars may be imposed.                                                                                         |
| <b>Class 4</b> | Ten years imprisonment in a state correctional facility. In addition, a fine of twenty thousand dollars may be imposed.                                                                                             |
| <b>Class 5</b> | Five years imprisonment in a state correctional facility. In addition, a fine of ten thousand dollars may be imposed.                                                                                               |
| <b>Class 6</b> | Two years imprisonment in a state correctional facility or a fine of four thousand dollars, or both.                                                                                                                |

### **Section 2. Misdemeanors, SDCL § 22-6-2**

|                |                                                                                  |
|----------------|----------------------------------------------------------------------------------|
| <b>Class 1</b> | One year imprisonment in a county jail or two thousand dollars fine, or both.    |
| <b>Class 2</b> | Thirty days imprisonment in a county jail or five hundred dollars fine, or both. |

### **Section 3. Petty Offenses, SDCL § 23-1A-22**

[SDCL § 22-6-7](#) provides that a petty offense is a civil proceeding in which the state is the plaintiff.

If the plaintiff prevails in a petty offense case, the plaintiff is granted a judgment of twenty-five dollars. The trial court may reduce or eliminate the award in the interest of justice. No award may be granted to a defendant in a petty offense case.

## **Section 4. Determining the Appropriate Criminal Penalty**

The following may assist a drafter in determining an appropriate criminal penalty for a violation of the law.

|                            |                                                                              |
|----------------------------|------------------------------------------------------------------------------|
| <b>Felony</b>              | Serious injury to an individual<br>Serious damage to property                |
| <b>Class 1 misdemeanor</b> | Minor injury to an individual<br>Minor damage to property                    |
| <b>Class 2 misdemeanor</b> | Failure to carry out a mandatory duty<br>Violation of an administrative rule |
| <b>Petty offense</b>       | Nuisance violation that does not cause injury or damage                      |

## **Section 5. Drafting a Criminal Penalty**

A criminal penalty should be drafted as follows:

### **Section 3. That a NEW SECTION be added to chapter 99-18:**

A person may not intentionally obstruct the transmission of programming material. A violation of this section is a Class 2 misdemeanor.

## **Section 6. Civil Penalty**

A civil penalty is a financial payment assessed by a court or a state agency for the violation of a statute or rule. A civil penalty is assessed to compensate the state for harm done to it. A bill that includes a civil penalty should indicate:

- Who is to assess and collect the civil penalty
- The maximum amount of the civil penalty
- To whom the civil penalty will be forwarded for deposit
- Into which fund the civil penalty will be deposited

### **Section 7. That a NEW SECTION be added to chapter 37-25A:**

The director may impose a civil penalty against a person for violating section 3 of this Act. The amount of the civil penalty may not exceed five thousand dollars. The director shall forward any civil penalty collected under this section to the state treasurer, for deposit in the general fund.

## PART X. EFFECTIVE DATES

### **Section 1. General**

If an Act is passed during a regular session, the effective date is July first, unless the Act includes an emergency clause or provides for a different effective date. If an Act is passed during a special session, the effective date is the ninety-first day after final adjournment of the session, unless otherwise prescribed. See [SDCL § 2-14-16](#).

An Act may, without needing an emergency clause, take effect ninety days after the adjournment of a regular session, but before July first, if the Act includes an effective date. See [S.D. Const., Art. III, § 22](#).

**Section 7.** This Act is effective beginning June 28, 2026.

An effective date may apply to an entire Act or to specific sections. If the effective date applies to specific sections, the remaining sections take effect on July first of the year of passage, unless otherwise prescribed.

**Section 28.** Sections 27 to 39, inclusive, of this Act are effective beginning June 28, 2026.

### **Section 2. Emergency**

An emergency clause gives effect to an Act of the Legislature immediately upon approval of the Act by the Governor. If a bill contains an emergency clause, the bill requires concurrence by two-thirds of the members of each house. See [S.D. Const., Art. III, §§ 1](#) and [22](#). The emergency clause is used if the bill is necessary for:

- The support of the state government and its existing public institutions
- The immediate preservation of public peace, health, or safety

The title of the bill must reflect the addition of an emergency clause by including the phrase "and to declare an emergency."

## 2026 South Dakota Legislature

### **Senate Bill 378**

*Introduced by: **Senator** Jefferson*

**An Act to establish requirements for the issuance of a trail use permit and to declare an emergency.**

For bills that are related to taxation, that raise revenue, or that appropriate moneys, use the "support of state government" emergency clause.

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

For bills that are regulatory in nature, use the "preservation of public peace" emergency clause.

**Section 11.** Whereas, this Act is necessary for the immediate preservation of public peace, health, or safety, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

## PART XI. EXPIRATION DATES

An expiration date clause is used to indicate the date on which one or more sections of an Act will cease to be effective. Depending on the intended scope, the clause is expressed as one of the following:

**Section 13.** This Act expires on December 31, 2029.

**Section 14.** Section 3 of this Act expires on December 31, 2029.

**Section 15.** Sections 6 to 10, inclusive, of this Act expire on December 31, 2029.

An expiration date clause may be used if a new section is intended to have a limited duration and there is no need to include that duration permanently in the SDCL.

**Section 1. That a NEW SECTION be added to chapter 99-98:**

The Board of Examiners must increase an individual's license renewal fee by ten percent, if the individual does not submit the fee electronically.

**Section 2.** Section 1 of this Act expires on December 31, 2029.

Consider whether, given issues of clarity, comprehensibility, and duration, it is preferable to insert a date range in the SDCL section, rather than utilize a separate section containing an expiration date clause.

**Section 1. That a NEW SECTION be added to chapter 99-98:**

During the period beginning July 1, 2026, and ending December 31, 2029, the Board of Examiners must increase an individual's license renewal fee by ten percent, if the individual does not submit the fee electronically.

**Section 1. That § 99-98-17 be AMENDED:**

~~The~~ During the period beginning July 1, 2026, and ending December 31, 2029,  
the Board of Examiners must increase an individual's license renewal fee by ~~five~~ ten  
percent, if the individual does not submit the fee electronically.

An expiration clause may be used if a provision is intended to have a limited duration and the existing law is to be reinstated thereafter.

**Section 1. That § 99-98-17 be AMENDED:**

The Board of Examiners must increase an individual's license renewal fee by ~~five~~ ten percent, if the individual does not submit the fee electronically.

**Section 2.** Section 1 of this Act expires on December 31, 2029.

This means that the amendment of section 1 expires on the stated date, thereby returning the section to its pre-amendment version.

An expiration date may not be used in place of a repeal. If the intent is to repeal a provision and if the repeal is to be effective at a later date, the drafter must first provide for the repeal, and then, in a separate section, provide for the date on which the repeal is to become effective.

**Section 1. That § 99-98-17 be REPEALED:**

~~The Board of Examiners must increase an individual's license renewal fee by five percent, if the individual does not submit the fee electronically.~~

**Section 2.** Section 1 of this Act is effective beginning December 31, 2029.

[SDCL § 2-16-13](#) provides for the codification of only those laws that are of a "general and permanent nature." Accordingly, new sections that are temporary in nature should not be codified.

## PART XII. UNCOMMON SECTIONS OF A BILL

### **Section 1. Retroactive Applicability**

[SDCL § 2-14-21](#) provides that "[n]o part of the code of laws . . . shall be construed as retroactive unless such intention plainly appears." If retroactive applicability of a law is necessary, it must be specifically stated.

**Section 1. That a NEW SECTION be added to chapter 72-11:**

The benefit provided by this Act applies retroactively to the surviving beneficiary of each retirement system member who died on or after July 1, 2021.

**Section 7. That a NEW SECTION be added to chapter 92-14:**

Section 5 of this Act applies retroactively to any claim arising on or after July 1, 2021.

### **Section 2. Code Commission Authorization Clause**

If a bill requires technical changes to many sections of the SDCL, the South Dakota Code Commission may be directed to implement the changes. For example, if the intent was to change the name of the office of "state's attorney" to "counsel for the county," a drafter would amend the section in which the office is statutorily created and then include a section to this effect:

**Section 13.** The code commission shall substitute the term "counsel for the county" and its derivatives for the term "state's attorney" and its derivatives, wherever it is used in the South Dakota Codified Laws.

Similarly, if the intent was to change the name of a state agency, a drafter would include a section to this effect:

**Section 14. That a NEW SECTION be added to chapter 1-18:**

In future supplements and revisions of the South Dakota Codified Laws, the code commission shall delete all references to the "State Historical Society" and substitute therefor the "South Dakota State Historical Society."

The Commission can correct "apparent errors" and eliminate "obviously obsolete or ambiguous sections." However, the authority to "substitute terms or phraseology" or to alter the "names of boards, commissions, and agencies" comes from the Legislature intending that the Commission make the change "expressly or by implication." See [SDCL § 2-16-9](#). In the examples provided above, the change is created by statute and then the authority to implement the change is granted to the Code Commission.

### **Section 3. Suspension**

At times, it is necessary to hold a statute in abeyance for a specified period. This is done to provide for a temporary change and thereafter to return to the usual status -- *e.g.*, waiving the imposition of a sales tax on children's clothing for two months prior to the start of the school year or waiving an admission fee during the period of construction.

**Section 13.** Beginning July 1, 2026, § 10-45-27.2 is suspended and unenforceable, through June 30, 2028.

## **PART XIII. UNCOMMON REFERENCES**

### **Section 1. References to a Bill Created During the Current Session**

Occasionally, it is necessary to reference a provision in a bill that was enacted during the current session. For instance, a bill might have created a new fund. Thereafter, legislators might wish to transfer additional dollars to that newly created fund. The reference to be used is as follows:

**Section 15.** The state treasurer shall transfer \$500,000 from the environmental recovery fund to the property tax reduction fund, as created in House Bill 1234, and enacted by the One Hundred First Legislature. If House Bill 1234 does not become effective, the state treasurer shall transfer \$500,000 from the environmental recovery fund to the general fund.

## PART XIV. NONESSENTIAL SECTIONS OF A BILL

### **Section 1. Declaration of Purpose or Statement of Legislative Intent**

A bill does not need a declaration of purpose or a statement of legislative intent. Courts look to the plain language of a statute to obtain the legislative intent.

If a statement of policy or purpose is included, it should be concise and placed in the first section of a bill.

**Section 1.** It is the intent of the South Dakota Legislature to alleviate the shortage of physicians by increasing the availability of scholarships for medical students.

While declarations of purpose and statements of legislative intent can still be found in older sections of the SDCL, the South Dakota Code Commission, in October 2019, provided that declarations of purpose and statements of legislative intent will no longer be codified. The declarations and statements fall under "prefatory subject matter," which is excluded from the Code in accordance with [SDCL § 2-16-13.1](#).

### **Section 2. Legislative Findings**

Federal legislation often includes "findings" that support or justify the need for legislation. This is not encouraged in South Dakota. The legislative record provides opportunities for legislators and others to articulate the justification for a bill. Moreover, findings have the potential to create ambiguity when the substantive portions of a bill are amended and the findings are incongruous with the amendment.

If legislative findings are included, the form is as follows:

**Section 1.** The Legislature finds that, in order to protect the public health, it is necessary to have a strong state emergency response commission.

While legislative findings can still be found in older sections of the Code, the South Dakota Code Commission, in October 2019, provided that they will no longer be codified. The findings fall under "analyses," which are excluded from the Code in accordance with [SDCL § 2-16-13.1](#). The addition of footnotes in declarations of purpose, statements of legislative intent, or statements of legislative findings is not legislative practice and is discouraged.

### **Section 3. Severability Clauses**

Although severability clauses are frequently encountered in the laws of other states, they are not necessary in South Dakota legislation. Severability is a long-established doctrine of the Supreme Court of South Dakota. The Court is required to uphold any part of a legislative measure that will stand on its own, without the part that is unconstitutional. See *State ex rel. Mills v. Wilder*, 73 SD 330, 42 N.W. 2d 891 (1950); and *Nelson et al v. City of Miller*, 83 S.D. 611, 163 N.W. 2d 533 (1968).

An exception may be made in the case of a uniform act, to maintain consistency among the states.

### **Section 4. Inseverability Clauses**

Occasionally, it may be desirable to indicate that parts of a bill are not intended to be severable. In this case, the form is as follows:

**Section 7.** The provisions of this Act are essentially and inseparably connected and interdependent.

### **Section 5. Short Titles**

Each bill has a constitutionally required title that summarizes the content, e.g., "An Act to establish the horticulture commission."

The term "short title" refers to an independent second title that is inserted within the body of the bill.

**Section 12.** This Act is known as the "State Horticulture Act."

[SDCL § 2-14-9](#) specifies that such "titles . . . constitute no part of any statute." Accordingly, a new short title will not be codified.

An exception may be made in the case of a uniform act, to maintain consistency among the states.

# PART XV. APPROPRIATIONS, STATE MONEYS, AND FUNDS

## **Section 1. General**

[S.D. Const., Art. XII, § 1](#) states, "No money shall be paid out of the treasury except upon appropriation by law and on warrant drawn by the proper officer." The term "appropriation" means "an authorization by the Legislature to a budget unit to expend, from public funds, a sum of money not in excess of the sum specified, for the purposes specified in the authorization." See [SDCL § 4-7-1](#).

An appropriation may be viewed as permission to spend a certain amount of money, for a stated purpose, over a set amount of time or indefinitely. Even if there exists legal authority for a state entity to accomplish a certain task, and even if moneys are already available, the entity may not spend moneys for that task without an appropriation. See *Pennington County v. State ex rel. Unified Judicial System*, 641 N.W.2d 127, 133 (S.D. 2002). An expense cannot be incurred without an appropriation. To avoid unfunded mandates, both the authority to act and the authority to spend moneys must be provided by law.

The term "moneys" is used to describe an amount available to be spent. The term "fund" is used to describe a pool of moneys designated for a particular purpose. An appropriation authorizes the spending of *moneys* from a *fund*.

Most commonly, moneys are appropriated from the general fund, the state's primary operating fund. In addition, an entity may use "federal" funds, which contain moneys that are granted by the federal government and become state moneys upon receipt, or "other" funds.

Appropriations, as outlined in the South Dakota Constitution, may occur within the general appropriation bill, including amendments thereto, and within special appropriation bills. See [S.D. Const., Art. XII, § 2](#). The general appropriation bill includes "appropriations for ordinary expenses of the executive, legislative and judicial departments of the state, the current expenses of state institutions, interest on the public debt, and for common schools," *i.e.*, regular, ongoing state expenses. *Id.*

All other appropriations are "special appropriations," which must "be made by separate bills, each embracing but one object, and shall require a two-thirds vote of all the members of each branch of the Legislature." *Id.*

## **Section 2. Special Appropriation Bill**

The title of a special appropriation bill must state the general purpose of the appropriation and include the phrase "and to make an appropriation therefor."

|                                                                                      |
|--------------------------------------------------------------------------------------|
| <b>An Act to support firefighter training and to make an appropriation therefor.</b> |
|--------------------------------------------------------------------------------------|

An appropriation may be used only for the "specific purpose first made." See [S.D. Const., Art. XI, § 9](#).

A special appropriation should address:

- The amount being appropriated
- The source of the moneys
- The recipient state entity
- The purpose for which the moneys are being appropriated
- The framework governing the expenditure of the moneys
- The date the appropriation is effective
- The date the appropriation reverts

**Section 1.** There is appropriated \$2,000,000 from the general fund, to the Department of Human Services, for providing grants to support the development and expansion of adult day services.

**Section 2.** To be eligible for a grant, an applicant must demonstrate the capacity to provide qualifying services in a new or underserved area.

**Section 3.** The secretary of the Department of Human Services shall approve vouchers and the state auditor shall draw warrants to pay expenditures authorized in this Act.

**Section 4.** Any amounts appropriated in this Act not lawfully expended or obligated shall revert in accordance with the procedures described in chapter 4-8.

**Section 5.** This Act is effective beginning July 26, 2026.

## 2.1. How Much and From Where

A special appropriation begins with the phrase "There is appropriated." This is followed by the amount to be appropriated and the specific fund from which the amount is appropriated. The amount should be written with a dollar sign and numerals.

**Section 1.** There is appropriated \$13,000,000 from the general fund . . . .

General, federal, and other fund expenditure authority must be provided for separately.

- Specify the federal program and act for which federal fund expenditure authority will be used
- Specify the "other" fund to be used in the case of other fund expenditure authority

**Section 1.** There is appropriated \$13,000,000 in federal fund expenditure authority for state fiscal recovery fund moneys authorized in the American Rescue Plan Act . . . .

**Section 2.** There is appropriated \$5,000 from the water and environment fund . . . .

## ***2.2. To What Entity and For What Purpose***

A special appropriation must name the public entity to which the moneys are appropriated. See [S.D. Const., Art. III, § 23](#).

A special appropriation must also state the purpose for which the moneys are to be used.

**Section 1.** There is appropriated \$8,000,000 from the general fund, to the Department of Health, for providing grants to support pediatric cancer research.

## ***2.3. Framework***

A special appropriation should provide a legislative framework that might include:

- Criteria for receiving the moneys
- Conditions for releasing the moneys
- The agency's duties in managing the distribution of moneys
- Rule-making authority
- Reporting requirements
- Outcome measures

## ***2.4. Voucher and Warrant Language***

An appropriation bill must contain a section stating:

- Who shall approve the vouchers—generally, this will be the chief executive of the recipient entity.
- That the state auditor "shall draw warrants" to pay the expenditures. See [SDCL § 4-9-1](#).

**Section 3.** The secretary of the Department of Education shall approve vouchers and the state auditor shall draw warrants to pay expenditures authorized in this Act.

## **2.5. Reversion Language**

An appropriation bill must address how appropriated moneys will revert to their original fund, if not spent or obligated. By default, special appropriations revert four full fiscal years after the effective date of the appropriation. If a bill went into effect on April 1, 2026, any amounts remaining would revert automatically on June 30, 2029, because each new fiscal year starts on July first. See [SDCL § 4-8-21](#).

If the default timeframe is sufficient, it is not necessary to include a specific date, only a reference to [chapter 4-8](#).

**Section 4.** Any amounts appropriated in this Act, not lawfully expended or obligated, shall revert in accordance with the procedures prescribed in chapter 4-8.

If moneys are to revert on any other date, the bill must state the date. There is no limit on the time by when a special appropriation must revert.

**Section 4.** Any amounts appropriated in this Act, not lawfully expended or obligated by June 30, 2034, shall revert in accordance with the procedures prescribed in chapter 4-8.

## **2.6. Effective Date**

An effective date is necessary in an appropriation bill if the appropriation will use moneys from the current fiscal year. In this case, the effective date must be at least ninety days after the adjournment of the legislative session. See [S.D. Const., Art. III, § 22](#).

**Section 5.** This Act is effective beginning June 28, 2026.

An alternate way to ensure that money being appropriated comes from the current fiscal year involves the addition of an emergency clause. In fact, under an emergency clause, the money becomes available upon passage.

## **Section 3. Construction Projects**

An appropriation for a construction project authorizes expenditures for new buildings or facilities. In accordance with [SDCL § 5-14-1](#), a construction project includes:

- Architectural and engineering services
- Site preparation
- Construction, furnishing, and equipping the buildings and facilities for use, including heating, plumbing, ventilation, water, sewer, and electrical systems
- Construction of sidewalks
- Landscaping of grounds

If moneys are needed for land acquisition, the moneys must be provided for in a separate section of a bill that appropriates moneys for construction, or in a separate bill. Land acquisition is defined as "expenditures authorized for the purchase of land and improvements" and includes "sewer, street, and curb and gutter improvements that may start at the time of purchase of the land or later result as improvements to the land so acquired." See [SDCL § 5-14-1](#).

The title of a bill appropriating moneys for a construction project must reference the construction. If the bill includes moneys for land acquisition, the title must also reference the purchase of land.

### 2026 South Dakota Legislature

## **Senate Bill 378**

*Introduced by: **Senator** Madison*

**An Act to make an appropriation for the purchase of land and the construction of a prison in Rapid City.**

An appropriation for a construction project must also provide authority to the recipient entity. It must reference what is to be constructed and the location of the site, if known.

**Section 1.** The Department of Health may design, construct, and equip an addition to the Dr. Robert Hayes Building in Pierre, and provide for the inclusion of all services and actions necessary to complete the project.

If the entity must purchase land for the construction of a new building, place each grant of authority in a separate section, with the land purchase addressed first. The next section should note that the appropriation is for the purposes stated in the initial section of this Act.

**Section 2.** There is appropriated \$6,000,000 from the general fund, and \$1,000,000 in other fund expenditure authority for moneys accepted pursuant to section 3 of this Act, to the Department of Health, for the purposes described in section 1 of this Act.

If an agency intends to accept gifts, grants, and donations to supplement state moneys for a capital project, the bill must:

- Permit the agency to accept the gifts, grants, and donations
- Require the agency to create a new, temporary fund to hold the gifts, grants, and donations

**Section 3.** The Department of Health may accept moneys obtained for the project from gifts, grants, and donations, all of which comprise a special fund for the benefitted project. The department may expend moneys only up to the limit prescribed in section 2 of this Act.

Lastly, a paragraph is needed to provide that the design and construction of the project will be under the charge and supervision of the Bureau of Human Resources and Administration. The only exception is the Department of the Military, which supervises its own projects.

**Section 4.** The administration of the design and construction of the project authorized in this Act shall be under the general charge and supervision of the Bureau of Human Resources and Administration, as provided in chapter 5-14.

## **Section 4. Appropriations With Multiple Funds**

An appropriation may involve multiple funds and funding sources to reach the amount needed. Any combination of funding sources is acceptable, provided each source is properly referenced and the amount being appropriated from each source is specified.

**Section 1.** There is appropriated \$1,500,000 from the general fund, and \$6,500,000 in federal fund expenditure authority for state fiscal recovery fund moneys authorized in the American Rescue Plan Act, to the Department of Labor and Regulation for modernizing the reemployment assistance system.

## **Section 5. Appropriations to Multiple Agencies**

An appropriation may involve the receipt of moneys by multiple agencies. In this circumstance, use a separate section for each appropriation, and a separate section to indicate who is to approve the vouchers associated with each appropriation.

**Section 1.** There is appropriated \$150,000 from the general fund, to the Department of Agriculture and Natural Resources, for aerial predator control.

**Section 2.** There is appropriated \$75,000 from the general fund, to the Department of Game, Fish and Parks, for aerial predator control.

**Section 3.** The secretary of the Department of Agriculture and Natural Resources shall approve vouchers and the state auditor shall draw warrants to pay expenditures authorized in section 1 of this Act.

**Section 4.** The secretary of the Department of Game, Fish and Parks shall approve vouchers and the state auditor shall draw warrants to pay expenditures authorized in section 2 of this Act.

## **Section 6. Creating a Fund**

A fund is used to hold moneys collected from ongoing revenues. In rare instances, a fund may also be used for short-term purposes. A fund may be created only by law.

To create a new fund, use the standard language set forth below and provide a name for the fund.

**Section 1.** There is created in the state treasury the horticulture fund.

 **DRAFTING TIP:** Be aware that hundreds of funds have been statutorily created. When selecting a name for a newly created fund, check the Code to ensure that the name is not already in use.

Next, state:

- What constitutes the fund
- Who will administer the fund
- The purpose of the fund
- The manner in which moneys in the fund are to be appropriated—e.g., through the general appropriation bill, through a special appropriation bill, or through a continuous appropriation

If requested, state whether any interest earned is to remain in the fund or be transferred to the general fund. If a directive regarding the interest is not included, the determination is made by the Bureau of Finance and Management, with the approval of the Joint Committee on Appropriations.

**Section 1. That a NEW SECTION be added to chapter 1-41:**

There is created in the state treasury the environment fund. The fund consists of all fees imposed pursuant to chapter 34-44 and all other moneys designated for deposit in the fund.

The Department of Agriculture and Natural Resources shall administer the fund. The purpose of the fund is to defray expenses associated with programs administered by the department and any other purpose authorized in law. Interest on moneys credited to the fund must remain in the fund. Expenditures from the fund must be budgeted through the general appropriation bill.

If a fund is created for a long-term capital project that is not included in the general appropriation bill, it is necessary to transfer moneys into the fund.

If money is to be appropriated using a special appropriation bill, an initial appropriation may be included in the same bill, but it must be placed in a separate section.

**Section 2.** The state treasurer shall transfer \$10,000,000 from the general fund to the state technology fund created in section 1 of this Act.

**Section 3.** There is appropriated \$5,000,000 from the state technology fund, to the Bureau of Information and Telecommunications, for the purpose described in section 1 of this Act.

The title of the bill must reflect both the transfer and special appropriation.

## 2026 South Dakota Legislature

# Senate Bill 308

Introduced by: **Senator Monroe**

**An Act to create the technology modernization fund, provide for the transfer of moneys to the fund, and make an appropriation for technology upgrades.**

 **DRAFTING TIP:** Before creating a new fund, determine if an existing fund could serve the requisite purpose.

## **Section 7. Continuous Appropriations**

A continuous appropriation provides an undetermined amount of money for an indefinite period, from a fund other than the general fund. A continuous appropriation is codified in law.

To provide for a continuous appropriation, state:

- The name of the new fund in lowercase letters
- What constitutes the fund
- Who will administer the fund
- The purpose of the fund
- Where interest earned must be deposited
- That the fund is continuously appropriated to the entity administering the fund

### **Section 1. That a NEW SECTION be added to chapter 11-97:**

There is created in the state treasury the horticulture fund. The fund consists of all moneys raised by or on behalf of the Horticulture Commission, together with any gifts, grants, and donations.

The Department of Agriculture and Natural Resources shall administer the fund. The purpose of the fund is to defray the administrative expenses of the Horticulture Commission and support the commission's efforts to carry out its purpose, as set forth in § 11-97-1.

Interest on moneys credited to the fund must remain in the fund.

The horticulture fund is continuously appropriated to the Horticulture Commission.

## **Section 8. Amending Previous Appropriations**

The Legislature has the power to alter, change, or transfer an appropriation, unless it has been obligated "under circumstances where the charge on such appropriation has become a vested right." *See Apa v. Butler*, 638 N.W.2d 57, 63 (S.D. 2001).

When reducing the amount of a previously passed appropriation, changing the authorized entity, or changing the purpose of the appropriation, the corresponding session law must also be amended. The title must state the bill is to "amend" an appropriation, rather than to "make" an appropriation."

### 2026 South Dakota Legislature

## **Senate Bill 328**

*Introduced by: **Senator** Adams*

**An Act to amend an appropriation for a bioproducts facility at the research park in Brookings.**

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

**Section 1. That 2025 Session Laws, chapter 244, § 8 be AMENDED:**

There is appropriated \$15,000,000 from the general fund ~~a sum of \$20,000,000,~~ to the Board of Regents, for the purpose authorized in section 1 of this Act.

If the intent is to increase the amount of a previously passed appropriation, do not amend the prior session law. Instead, create a new appropriation providing for the desired increase. Utilize an emergency clause if necessary to provide for a distribution prior to July first.

The new appropriation may reference the session law that established the prior appropriation. Doing so avoids confusion regarding new moneys being spent on old projects.

**Section 1.** There is appropriated \$1,500,000 in other fund expenditure authority, to the Bureau of Human Resources and Administration, for increased costs related to the construction of the Chase Building in Pierre, as authorized in 2023 Session Laws, chapter 345, § 18.

Do not add a new section to a prior session law. Instead, create the directive in the current session. If necessary, add an appropriate effective date or emergency clause.

|                  |                                                                                                                                                                                                                     |
|------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Incorrect</b> | <b>Section 22.</b> That a NEW SECTION be added to the 2024 Session Laws, chapter 236:<br><br>Section 40. The state treasurer shall transfer \$5,000,000 from the general fund to the technology modernization fund. |
| <b>Correct</b>   | <b>Section 22.</b> The state treasurer shall transfer \$5,000,000 from the general fund to the technology modernization fund.                                                                                       |

## **Section 9. Transferring Moneys**

Moneys may be transferred from one fund to another. This usually involves a transfer from the general fund to another fund, for a future project. The transfer is more often accomplished in the general appropriation bill, rather than through a special appropriation bill. However, either may be used.

A transfer must include:

- The amount of the transfer
- The fund from which the moneys will be transferred
- The fund into which the moneys will be deposited

Depending on the complexity of the transfer and appropriation, multiple sections may be used.

**Section 1.** The state treasurer shall transfer \$300,000 from the general fund to the conservation district special revenue fund. The amount transferred in this section is appropriated to the State Conservation Commission for the purpose described in § 39-84-46.

If the intent is to increase the amount of a previously enacted transfer, do not amend the prior session law. Instead, create a new section providing for the desired increase. Include an effective date or emergency clause, if necessary.

## PART XVI. STATE AGENCIES

### Section 1. Proper Names of State Agencies.

A state agency may be an authority, board, bureau, center, commission, council, department, division, office, etc. See [SDCL §§ 1-26-1](#) and [1-32-1](#). Currently, more than one hundred forty agencies are referenced in the Code and vested with the authority to exercise a portion of the state's sovereignty. Often the statutory sections in which an agency is referenced are quite far removed from the statutory section in which that agency was created.

When referencing a specific state agency, a drafter must ensure that the proper name is being used. Some agencies utilize "South Dakota" or "State" in their name, while others do not.

 **DRAFTING TIP:** Pay attention to suffixes. The Wheat Commission is properly referred to as the South Dakota Wheat Utilization, Research and Market Development Commission, not "Marketing" Commission.

 **DRAFTING TIP:** Pay attention to punctuation in the names of agencies. In the case of the South Dakota Wheat Utilization, Research and Market Development Commission, a comma is used after "Utilization" but not after "Research." The same is true for the Game, Fish and Parks Commission and the Game, Fish and Parks Department.

The following are the proper names of South Dakota agencies.

| Proper Name                                                   | Statutory Cite           |
|---------------------------------------------------------------|--------------------------|
| 911 Coordination Board, South Dakota                          | § 34-45-18               |
| Abstracters' Board of Examiners of the State of South Dakota  | § 36-13-1                |
| Accountancy, South Dakota Board of                            | § 36-20B-4               |
| Addiction and Prevention Professionals, South Dakota Board of | § 36-34-2                |
| Aeronautics Commission, South Dakota                          | § 50-1-1                 |
| Agriculture and Natural Resources, Department of              | § 1-41-1                 |
| American Dairy Association of South Dakota                    | § 40-31-2                |
| Animal Industry Board, State                                  | § 40-3-1                 |
| Appraisal, Board of                                           | § 5-9-3                  |
| Arts Council, South Dakota State                              | § 1-22-2                 |
| Athletic Commission, South Dakota                             | § 42-12-8                |
| Attorney General                                              | S.D. Const., Art IV, § 7 |

|                                                                         |                          |
|-------------------------------------------------------------------------|--------------------------|
| Auditor                                                                 | S.D. Const., Art IV, § 7 |
| Banking Commission, South Dakota State                                  | § 1-47-7                 |
| Barber Examiners, Board of                                              | § 36-14-2                |
| Brand Board, South Dakota State                                         | § 40-18-1.1 & 12         |
| Building Authority, South Dakota                                        | § 5-12-1                 |
| Capitol Complex Restoration and Beautification Commission, South Dakota | § 5-15-1                 |
| Certified Professional Midwives, South Dakota Board of                  | § 36-9C-1 & 6            |
| Child Support, Commission on                                            | § 25-7-6.12              |
| Chiropractic Examiners, South Dakota Board of                           | § 36-5-1.1               |
| Civil Service Commission                                                | § 3-6D-1                 |
| Code Commission, South Dakota                                           | § 2-16-3                 |
| Conservancy District, South Dakota                                      | § 46A-2-1                |
| Conservation Commission, State                                          | § 38-7-3                 |
| Corn Utilization Council, South Dakota                                  | § 38-32-2                |
| Corrections Commission                                                  | § 1-15-1.13              |
| Corrections, Department of                                              | § 1-15-1.2               |
| Cosmetology Commission                                                  | § 36-15-3                |
| Counselors and Marriage and Family Therapists, Board of Examiners for   | § 36-32-47               |
| Court Appointed Special Advocates Commission                            | § 16-2-53                |
| Crime Victims' Compensation Commission, South Dakota                    | § 23A-28B-3              |
| Critical Teaching Needs Scholarship Board                               | § 13-55-65               |
| Dentistry, State Board of                                               | § 36-6A-1.1              |
| Economic Development Finance Authority, South Dakota                    | § 1-16B-7                |
| Economic Development, Governor's Office of                              | § 1-53-1                 |
| Economic Development, Board of                                          | § 1-16G-1                |
| Education, Department of                                                | § 1-45-1                 |
| Education Standards, South Dakota Board of                              | § 1-45-6.1               |
| Educational Telecommunications, South Dakota Board of Directors for     | § 13-47-1                |
| Elections, State Board of                                               | § 12-1-5                 |
| Electrical Commission, State                                            | § 36-16-3                |
| Ellsworth Development Authority, South Dakota                           | § 1-16J-1                |
| Emergency Response Commission, South Dakota State                       | § 1-50-1                 |
| Equal Access to Our Courts, Commission on                               | § 16-2-55                |
| Executive Management, Department of                                     | § 1-33-1                 |

|                                                            |             |
|------------------------------------------------------------|-------------|
| Extraordinary Cost Oversight Board                         | § 13-37-60  |
| Fair Commission, State                                     | § 1-21-1    |
| Finance, State Board of                                    | § 4-1-1     |
| Finance and Management, Bureau of                          | § 4-7-2     |
| Fire Marshal's Advisory Board, State                       | § 34-29B-19 |
| Funeral Service, State Board of                            | § 36-19-2   |
| Game, Fish and Parks Commission                            | § 41-2-1    |
| Game, Fish and Parks, Department of                        | § 1-39-1    |
| Gaming, South Dakota Commission on                         | § 42-7B-6   |
| Geographic Names, South Dakota Board on                    | § 1-19C-2.1 |
| Government Accountability Board, State                     | § 3-24-1    |
| Hagen-Harvey Memorial Scholarship Board, Richard           | § 13-55-38  |
| Health, Department of                                      | § 1-43-1    |
| Health and Educational Facilities Authority, South Dakota  | § 1-16A-3   |
| Hearing Aid Dispensers and Audiologists, Board of Licensed | § 36-24-2   |
| Historical Society, South Dakota State                     | § 1-18-3    |
| Historical Society Board of Trustees, State                | § 1-18-12.2 |
| Housing Development Authority, South Dakota                | § 11-11-10  |
| Human Resources and Administration, Bureau of              | § 1-33-3    |
| Human Rights, South Dakota State Commission of             | § 20-13-1   |
| Human Services, Department of                              | § 1-36A-1.1 |
| Information and Telecommunications, Bureau of              | § 1-33-37   |
| Internal Control, State Board of                           | § 1-56-2    |
| Interstate Adult Offender Supervision, State Council for   | § 24-16A-1  |
| Interstate Commission for Juveniles                        | § 26-12-15  |
| Investment Council, State                                  | § 4-5-12    |
| Ireland Trade Commission, South Dakota-                    | § 1-57-2    |
| Judicial Qualifications, Commission on                     | § 16-1A-2   |
| Juvenile Justice Oversight Council                         | § 26-8D-7   |
| Juvenile Services, Council of                              | § 1-15-29   |
| Labor and Regulation, Department of                        | § 1-37-1    |
| Law Enforcement Officers Standards Commission              | § 23-3-28   |
| Legislative Audit, Department of                           | § 4-2-1     |
| Lottery Commission, South Dakota                           | § 42-7A-17  |
| Massage Therapy, Board of                                  | § 36-35-1   |
| Medical and Osteopathic Examiners, State Board of          | § 36-4-1    |

|                                                                              |                          |
|------------------------------------------------------------------------------|--------------------------|
| Military, Department of the                                                  | § 1-46-1                 |
| Minerals and Environment, Board of                                           | § 1-41-19                |
| Nursing Facility Administrators, South Dakota Board of                       | § 36-28-2                |
| Nursing, South Dakota Board of                                               | § 36-9-5                 |
| Nutrient Research and Education Council                                      | § 38-19-50               |
| Obligation Recovery Center                                                   | § 1-55-2                 |
| Oilseeds Council, South Dakota                                               | § 38-27-2                |
| One-Call Notification Board, Statewide                                       | § 49-7A-2                |
| Open Meeting Commission, South Dakota                                        | § 1-25-8                 |
| Optometry, South Dakota Board of Examiners in                                | § 36-7-1.3               |
| Pardons and Paroles, Board of                                                | § 24-13-1                |
| Pharmacy, State Board of                                                     | § 36-11-4                |
| Physical Therapy, State Board of                                             | § 36-10-18.3             |
| Plumbing Commission, State                                                   | § 36-25-2                |
| Podiatry Examiners, State Board of                                           | § 36-8-2                 |
| Pork Commission, South Dakota                                                | § 38-33-2                |
| Professional Administrators Practices and Standards Commission, South Dakota | § 13-43-38               |
| Professional Teachers Practices and Standards Commission, South Dakota       | § 13-43-17               |
| Psychologists, Board of Examiners of                                         | § 36-27A-3               |
| Public Deposit Protection Commission, South Dakota                           | § 4-6A-2                 |
| Public Health Laboratory, State                                              | § 1-49-2                 |
| Public Safety, Department of                                                 | § 1-51-1                 |
| Public Utilities Commission of the State of South Dakota                     | § 49-1-8                 |
| Pulse Crops Council, South Dakota                                            | § 38-34-2                |
| Real Estate Commission, South Dakota                                         | § 36-21A-13              |
| Record Destruction Board, State                                              | § 1-27-19                |
| Reemployment Assistance Advisory Council, State                              | § 61-2-7.1               |
| Regents, Board of                                                            | § 13-49-1                |
| Retirement System, Board of Trustees of the South Dakota                     | § 3-12C-203              |
| Retirement System, South Dakota                                              | § 3-12C-101              |
| Revenue, Department of                                                       | § 1-47-1.1               |
| School and Public Lands, Commissioner of                                     | S.D. Const., Art IV, § 7 |
| School Finance Accountability Board                                          | § 1-45-38                |
| Science and Technology Authority, South Dakota                               | § 1-16H-4                |
| Secretary of State                                                           | S.D. Const., Art IV, § 7 |

|                                                                             |                          |
|-----------------------------------------------------------------------------|--------------------------|
| Seed Certification Board, State                                             | § 38-11-1                |
| Service to the Blind and Visually Impaired, Board of                        | § 28-10-25               |
| Social Services, Board of                                                   | § 1-36-3                 |
| Social Services, Department of                                              | § 1-36-1                 |
| Social Work Examiners, South Dakota Board of                                | § 36-26-3                |
| Soybean Research and Promotion Council, South Dakota                        | § 38-29-2                |
| Speech-Language Pathology, Board of Examiners for                           | § 36-37-8                |
| Teacher Compensation Review Board                                           | § 1-45-39                |
| Technical Education, South Dakota Board of                                  | § 13-39A-2               |
| Technical Professions, Board of                                             | § 36-18A-14              |
| Tourism, Board of                                                           | § 1-52-14                |
| Tourism, Department of                                                      | § 1-52-1                 |
| Transportation Commission                                                   | § 1-44-4                 |
| Transportation, Department of                                               | § 1-44-1                 |
| Treasurer                                                                   | S.D. Const., Art IV, § 7 |
| Tribal Relations, Department of                                             | § 1-54-1                 |
| Unified Judicial System                                                     | S.D. Const., Art V, § 1  |
| Veterans Affairs, Department of                                             | § 1-46A-1                |
| Veterinary Medical Examiners, State Board of                                | § 36-12-3                |
| Vocational Rehabilitation, Board of                                         | § 1-36A-5                |
| Water and Natural Resources, Board of                                       | § 1-41-11                |
| Water Management Board                                                      | § 1-41-15                |
| Weed and Pest Control Commission, South Dakota                              | § 38-22-1.4              |
| Wheat Utilization, Research and Market Development Commission, South Dakota | § 38-10-5                |
| Workers' Compensation Advisory Council, State                               | § 62-2-10                |

## **Section 2. Creating a New Entity**

Rarely will a drafter be required to create a new department or bureau of state government. However, creating boards, commissions, councils, etc., is not uncommon and should be done within a standardized structure.

### **2.1. Name**

When creating a new board, commission, council, etc., a drafter must assign the entity a name. It is not sufficient to create a seven-member board for the purpose of advising the Governor and thereafter refer to it as "the board created in section 3 of this Act."

In selecting a name, avoid redundancy.

|                  |                                                      |
|------------------|------------------------------------------------------|
| <b>Incorrect</b> | The South Dakota State Council on Physical Education |
| <b>Correct</b>   | The Council on Physical Education                    |

## **2.2. Allocation**

When creating a new board, commission, council, etc., a drafter should allocate the entity to a constitutional officer or an existing principal department. See [S.D. Const., Art. IV, § 8](#).

If a newly created entity has rule-making authority, [SDCL § 1-26-4](#) requires that the entity "serve a copy of a proposed rule and any publication described in [§ 1-26-6.6](#) upon the departmental secretary, bureau commissioner, public utilities commissioner, or constitutional officer to which it is attached for the secretary's, commissioner's, or officer's written approval to proceed . . . ."

**Section 1. That a NEW SECTION be added to title 65:**

The Council on Physical Education is created within the Department of Health.

## **2.3. Membership**

When creating a new board, commission, council, etc., a drafter must consider:

- The number of members
- Whether some or all of the members are to be elected and if so, by whom
- Whether some or all of the members are to be appointed and if so, by whom
- Whether some or all of the members must have specific educational or experiential requirements
- Whether some or all of the members must have specific residential requirements
- Whether representation is to be balanced demographically, geographically, politically, etc.

These considerations may culminate in a very simple or a more complex construction, as illustrated in the following examples.

**Section 1. That a NEW SECTION be added to title 65:**

The Council on Physical Education is created within the Department of Health.  
The council consists of seven members appointed by the governor.

**Section 1. That a NEW SECTION be added to title 65:**

The Council on Physical Education consists of:

- (1) One individual who participated in the Olympics, appointed by the governor;
- (2) One individual who is licensed as a physician, appointed by the State Board of Medical and Osteopathic Examiners;
- (3) One individual who is a full-time student at an institution under the control of the Board of Regents; and
- (4) Four individuals appointed by the Governor from a list of eight submitted by a voluntary and nonprofit association that supervises and regulates high school interscholastic activities in this state.

 **DRAFTING TIP:** If specific individuals or positions are required, it is not necessary to reiterate the number of members.

## **2.4. Terms**

When creating a new board, commission, council, etc., a drafter must consider:

- The length of each member's term
- The date on which a member's term begins and ends
- Whether the terms are to be staggered and if so, how
- Whether multiple terms are permitted

The following are examples of language regarding terms.

The term of each member is three years.

The term of each appointed member is three years.

The term of each member appointed by the Governor is three years.

The term of each member is three years and begins on July first.

The term of each appointed member is three years and begins on July first.

The terms must be staggered by lot so that no more than three expire each year.

A member may not serve more than two consecutive terms.

A member may not serve more than two consecutive full terms.

A member may not serve more than two consecutive terms. If the member is appointed to fill an unexpired term, the unexpired term is [not] considered to be a term for purposes of this section.

A member may not serve more than two consecutive terms. If the member is appointed to fill an unexpired term, the unexpired term is not considered to be a term for purposes of this section, unless the duration of the unexpired term exceeds two years.

## **2.5. Vacancies**

When creating a new board, commission, council, etc., a drafter must consider whether a vacancy is to be filled:

- By election
- By the appointing authority
- By the remainder of the members
- By the remainder of the members with the advice and consent of others

 **DRAFTING TIP:** A drafter should be familiar with provisions governing vacancies, as set forth in [SDCL chapter 3-4](#).

## **2.6. Removal**

When creating a new board, commission, council, etc., a drafter must consider whether the members:

- Serve at the pleasure of the Governor
- May be removed only for cause

[SDCL § 3-17-2](#) provides that "[a]ll state officers not liable to impeachment and not subject to removal by the Governor, in accordance with the provisions of [§ 3-17-1](#), and appointed by the Governor with or without the advice and consent of the Senate, shall be subject to removal by the Governor without assigning cause therefor."

[SDCL § 3-4-10](#) also provides for the filling of certain vacancies and unexpired terms by the Governor, within one hundred twenty days, unless the entity is specifically exempted from the section.

## **2.7. Compensation for Members**

The Legislature does not set per diem and expense allowances for existing boards, bureaus, commissions, councils, etc., in any legislation, other than the general appropriation bill. See [SDCL § 4-7-10.4](#). For newly created entities, the special committee established in [SDCL § 4-8A-2](#) may, during its interim meetings, temporarily set the rates.

## **2.8. Chair and Other Officers**

When creating a new board, commission, council, etc., a drafter must consider:

- Who will serve as the chair
- Whether the chair is to be statutorily designated, elected, or selected
- Whether the entity requires the designation of other officers, such as a vice-chair, a secretary, or a treasurer
- The period of time applicable to the office

The following are examples of language regarding chairs and officers.

The Council on Physical Education shall annually select one from among its members to serve as the chair.

The Council on Physical Education consists of:  
(1) The secretary of health, who shall serve as the chair;  
(2) One individual who is . . . .

## **2.9. Meetings**

When creating a new board, commission, council, etc., a drafter must consider:

- Whether the number of meetings is to be specified
- Whether the meetings are to occur during a specific period or at regular intervals
- Whether special meetings may be called by the chair
- Whether special meetings are required at the request of board members

The following are examples of language regarding meetings:

The Council on Physical Education shall meet on the first business day of each month.

The Council on Physical Education shall meet at least quarterly, at the call of the chair.

## **2.10. Duties**

When creating a new board, commission, council, etc., a drafter must define the duties to be undertaken. These may include:

- The establishment of a program
- Issues to be addressed
- Data to be compiled
- Reports to be published or provided to named entities
- Rules to be promulgated

Duties are mandatory. If they are to be undertaken by a date certain or on a regular basis, the statutory section should include that information.

The Council on Physical Education shall compile an annual report regarding the participation of individuals, over sixty years of age, in organized sports. The council shall forward the report to the Governor and the Legislature on or before December thirty-first of each year.

## 2.11. Powers

Unlike duties, powers are permissive. They are grants of authority. They may include the power to:

- Employ personnel
- Open an office
- Expend moneys
- Accept gifts, grants, and donations
- Contract

 **DRAFTING TIP:** To ensure there is no confusion about an action being required or permissive, do not provide that an entity has "the power and the duty to . . . ." Use a separate sentence or section to articulate that which an entity "shall" do versus that which it "may" do.

## 2.12. Administrative Support

If an entity is not authorized to employ its own personnel, it may be necessary to indicate how the entity's administrative functions will be accomplished.

The Department of Health shall provide administrative support to the Council on Physical Education.

## 2.13. Funding

When creating a new board, commission, council, etc., a drafter must determine how the entity is to be funded. Will the costs be absorbed within the budget of the department to which the entity is attached? Is there a need for a special or a continuing appropriation? If a fee is necessary to support the entity, the drafter must address:

- The purpose of the fee
- The program that the fee is intended to support
- The maximum amount of the fee
- When the fee is to be assessed
- Upon whom the fee is to be assessed
- The fund into which the fee is to be deposited and by whom

 **DRAFTING TIP:** Review the sections of this *Guide* pertaining to the appropriation of moneys.

## PART XVII. CHECKLIST FOR BILL DRAFTING

- ☐ Does the title include only one subject, which is clearly expressed?
- ☐ Does the title include an active verb in the infinitive?
- ☐ Does the title require a reference to an appropriation, an emergency clause, or a penalty clause?
- ☐ Does the title require reference to the authorization of a new tax?
- ☐ Are the new and amended sections of the bill numerically arranged according to their placement in the Code?
- ☐ Are the new sections logically located within the existing sections of the chapter?
- ☐ Is the bill divided into sections and subdivisions in a way that achieves maximum clarity?
- ☐ Are subsections and subdivisions consecutively numbered?
- ☐ Are the uncodified sections correctly ordered?
- ☐ Has a catchline been added to a new section?
- ☐ Does an existing catchline need to be changed?
- ☐ Are the defined words used consistently throughout the bill?
- ☐ Does the definition section consist only of words used in the bill or in the chapter that is being amended?
- ☐ Does the definition section include only words that do not have a fixed and single meaning in normal usage?
- ☐ Is the definition section alphabetically arranged?
- ☐ Does the definition section improperly include substantive law?
- ☐ Is all new language underscored?
- ☐ Is the new language appropriately located after overstricken language?
- ☐ Do the overstrikes and underscores start and stop in the appropriate spaces?
- ☐ Does the bill follow the conventions regarding the appropriate use of:
  - Capitalization
  - Dates
  - Dollars
  - Grammar
  - Punctuation
  - Spelling
  - Time
- ☐ Are lists alphabetized?
- ☐ Are all words used consistently throughout the bill?

- ☐ Is the active voice used?
- ☐ Have unnecessary adjectives and adverbs been removed?
- ☐ If the draft references a board, bureau, commission, council, department, or other agency of the state, is the formal title used?
- ☐ Does the bill accomplish its intended purpose?
- ☐ Does the bill result in unintended consequences?
- ☐ Does the bill address conflicting provisions in existing laws through amendment or repeal?
- ☐ Are state and federal statutory references in the bill accurate?
- ☐ Are internal references to various sections in the bill accurate?
- ☐ If subdivisions or subsections are changed as a result of language being added or deleted, are all cross-references in the Code accurate?
- ☐ If the bill prohibits an act, is there a penalty clause or other consequence?
- ☐ Does the bill need an effective date or an emergency clause?
- ☐ Have unnecessary sections such as a short title or a severability clause been removed?
- ☐ Is the bill written in a style that can be easily understood by those who are affected by it and those who must administer it?

## **PART XVIII. RESOLUTIONS AND COMMEMORATIONS**

There are four types of resolutions—joint, concurrent, simple (House or Senate), and resolutions of disapproval.

### **Section 1. Joint Resolution**

A joint resolution is used to:

- Submit to the people a matter for referendum
- Submit to the people a proposed amendment to the South Dakota Constitution
- Ratify a proposed amendment to the United States Constitution
- Grant a water right pursuant to [SDCL § 46-5-20.1](#)
- Petition Congress to call for a constitutional convention
- Withdraw a previously ratified amendment to the United States Constitution

The form and style of a joint resolution differs depending on its purpose. A joint resolution that proposes an amendment to the South Dakota Constitution does not contain "WHEREAS" clauses or a "BE IT RESOLVED" conclusion.

A joint resolution that ratifies or withdraws ratification of a proposed amendment to the United States Constitution and a resolution that petitions Congress to call a constitutional convention include "WHEREAS" clauses and a conclusory "BE IT RESOLVED."

### **Section 2. Concurrent Resolution**

A concurrent resolution is used to:

- Express an opinion or principle of the Legislature
- Authorize an interim study, committee, or legislative session
- Instruct a department of state government
- Petition a federal agency

A concurrent resolution requires action by the second chamber.

### **Section 3. House or Senate Resolution**

A House or Senate resolution is used to:

- Express an opinion or principle of one chamber
- Express an opinion to or make a request of the other chamber
- Regulate procedure
- Refer to the Executive Board of the Legislative Research Council a topic for possible study by an interim committee

A House or Senate resolution pertains only to matters within the purview of the originating chamber. It does not require action by the second chamber.

## **Section 4. Resolution of Disapproval**

A resolution of disapproval is used to express disapproval of an executive order related to a governmental reorganization.

A resolution of disapproval does not require action by the second chamber.

## **Section 5. Commemoration**

A commemoration is used to:

- Express legislative recognition of service or achievements that have national or statewide importance
- Express sorrow over a death or loss

A commemoration is entered in the journal but is not subject to a vote. If any member makes a timely objection to a commemoration, the commemoration fails.

---

---

 **DRAFTING TIP:** "Commemorate" means to remember something and by doing so, honor it. In selecting the verbiage that follows the phrase "NOW, THEREFORE, BE IT COMMEMORATED," care must be taken to avoid a nonsensical result. Mentally replace the word "commemorated" with "remembered" and evaluate the chosen verbiage.

---

---

## **Section 6. Drafting Resolutions and Commemorations**

Most concurrent resolutions and House or Senate resolutions consist of a title, a preamble, and a body.

The title states the type and subject of the resolution. It should be clear, be concise, and provide an accurate description of the resolution's contents.

The preamble is a series of "WHEREAS" clauses that describe the situation or conditions for which the resolution proposes action. Language in a preamble may be less constricted than that found in other forms of legislation.

The preamble of a commemoration should not contain more than three short "WHEREAS" clauses, because commemorations are intended to be enrolled as one-page documents, suitable for framing.

The body of a resolution is the closing or resolving clauses, which propose action or express the opinion of the Legislature.

## PART XIX. AMENDMENTS

An amendment is a change proposed after a bill or resolution has been introduced. An amendment must identify the bill or resolution by number and version.

2026 South Dakota Legislature

### **Senate Bill 111**

**AMENDMENT 111E  
FOR THE SENATE EDUCATION ENGROSSED BILL**

2026 South Dakota Legislature

### **House Joint Resolution 5009**

**AMENDMENT HJR5009A  
FOR THE INTRODUCED RESOLUTION**

The principles of style and form that apply to drafting a bill or a resolution also apply to drafting an amendment.

An amendment may involve the addition of words to an existing section.

#### **Section 1. That § 99-13-14 be AMENDED:**

The secretary shall notify the board of trustees, and the Governor, upon receipt of an application for membership.

An amendment may involve the removal of words from an existing section.

#### **Section 1. That § 99-13-14 be AMENDED:**

The secretary shall notify the board of trustees upon receipt of an application ~~for~~ membership.

An amendment may involve the removal of words that were proposed for addition to an existing section.

**Section 1. That § 99-13-14 be AMENDED:**

The secretary shall notify the board of trustees, ~~and the Governor,~~ upon receipt of an application for membership in the association.

 **DRAFTING TIP:** If an amendment to remove words that were proposed for addition to an existing section would have the effect of not changing any language currently in the existing section, remove the section from the bill. At that point, there is no longer any reason to have the section included in the bill.

An amendment may involve the addition of a section.

**Section 1. That § 99-13-14 be AMENDED:**

The secretary shall notify the board of trustees, and the Governor, upon receipt of an application for membership.

**Section 2. That a NEW SECTION be added to chapter 99-13:**

Within thirty days of receiving a notification under § 99-13-14, the board shall meet to review the application.

An amendment may involve the removal of a section that had been proposed for addition to the chapter. The lead line, as well as the words of the section, are overstricken.

**Section 1. That § 99-13-14 be AMENDED:**

The secretary shall notify the board of trustees, and the Governor, upon receipt of an application for membership.

**~~Section 2. That a NEW SECTION be added to chapter 99-13:~~**

~~Within thirty days of receiving a notification under § 99-13-14, the board shall meet to review the application.~~

An amendment may involve the repeal of an existing section. The lead line indicates that the section is being repealed, and only the words of the section are overstricken.

**Section 1. That § 99-13-14 be AMENDED:**

The secretary shall notify the board of trustees, and the Governor, upon receipt of an application for membership.

**Section 2. That § 99-13-18 be REPEALED:**

~~Within thirty days of receiving a notification under § 99-13-14, the board shall meet to review the application.~~

An amendment may involve a change in the bill's title.

2026 South Dakota Legislature

**Senate Bill 124**

**AMENDMENT 124A  
FOR THE SENATE ENGROSSED BILL**

**An Act to update the membership of the commission on aquaculture and aquatic animals.**

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

**Section 1. That § 99-13-21 be AMENDED:**

The commission on aquaculture and aquatic animals consists of ~~six~~ seven members appointed by the Governor.

 **DRAFTING TIP:** After drafting an amendment, review the title to determine whether it still accurately reflects the proposed content of the bill. Amend the title if necessary.

An amendment may involve the removal of all language after the enacting clause and the insertion of new material. This is referred to as a hoghouse amendment.

## 2026 South Dakota Legislature

### Senate Bill 125

#### HOUSE ENGROSSED

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

**~~An Act to require parental notification when an elementary school student is involved in an assault on school property~~ designate a state fruit.**

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

**Section 1. That a NEW SECTION be added to chapter 1-6:**

Watermelon, Citrullus lanatus, is designated as the official fruit of this state.

 **DRAFTING TIP:** If an amendment adds or removes a section, the bill drafting software will automatically renumber the remaining sections of the bill. The software will not renumber internal references or cross-references. Those must be checked and corrected by the drafter.

 **DRAFTING TIP:** Before finalizing an amendment, review the items referenced in the CHECKLIST FOR BILL DRAFTING, as set forth in PART XVII of this *Guide*, and address any issues that may have been created by the amendment.

## PART XX. RULE-MAKING AUTHORITY

### **Section 1. Administrative Procedures, SDCL chapter 1-26**

In many instances, legislation of substantial scope is administered by an agency of the state. [SDCL chapter 1-26](#) sets forth the procedure for:

- Administrative rule-making
- Administrative hearings
- Appeals to the courts

### **Section 2. Rules for New Programs**

Whenever a new program is established, providing authority to promulgate rules should be considered. This may involve eligibility for licensure, eligibility for moneys or other benefits, audit requirements, standards for distributing moneys, etc.

### **Section 3. Narrow and Specific Rule-making Authority**

Rule-making authority is quasi-legislative authority that is delegated to an agency. This delegation can be done only in law. Administrative rules require the "general authority to promulgate rules" and a reference to the law being "implement[ed]" by the rule. See [SDCL § 1-26-6.2](#).

General authority is the "clearly expressed legislative will to delegate the power to adopt the particular rule." *S.D. Migratory Bird Ass'n v. SD Game, Fish & Parks*, 312 N.W.2d 374, 375 (S.D. 1981). The law implemented is a prescribed "policy . . . [or] standard" that prevents the agency from exercising "unlimited or absolute discretion" in its power to adopt a particular rule. See *State v. Moschell*, 2004 S.D. 35, ¶ 17, 677 N.W.2d 551, 559; see also *S.D. Migratory Bird Ass'n*, supra.

Authority allowing an agency to promulgate rules should be narrowly drawn. A statement authorizing an agency to "promulgate rules to implement this chapter" is a grant of rule-making power that is without standards and may be an unconstitutional delegation of legislative authority.

Instead, determine what rules the agency needs and draft specific rule-making authority that cites [SDCL chapter 1-26](#).

|                  |                                                                                                                                                                           |
|------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Incorrect</b> | <p><b>Section 6. That a NEW SECTION be added to chapter 99-15:</b></p> <p><u>The Department of Health shall promulgate rules necessary to implement this chapter.</u></p> |
|------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>Correct</b></p> | <p><b>Section 6. That a NEW SECTION be added to chapter 99-15:</b></p> <p><u>The Department of Health shall promulgate rules, in accordance with chapter 1-26, to:</u></p> <p>(1) <u>Establish a procedure for the submission and review of a licensure application;</u></p> <p>(2) <u>Establish a licensure application fee in an amount not exceeding seventy-five dollars; and</u></p> <p>(3) <u>Provide for a renewal schedule based on the alphabetized surnames of licensees.</u></p> |
|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

In some cases, the general authority and the law implemented exist within the same section.

|                                                                                                                                                                                                                                                                                                                                                           |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>89-34B-4. Promulgation of rules--Safety standards.</b></p> <p>The commission shall promulgate rules, in accordance with chapter 1-26, to establish safety standards for the intrastate transportation of gas and gas pipeline facilities.</p> <p>The standards must address the design, inspection, and maintenance of gas pipeline facilities.</p> |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

## **Section 4. Amending Rule-making Authority**

A bill may remove or revise an agency's statutory authority to adopt rules. [SDCL § 1-26-8.1](#) states that a rule is void if the authority to adopt it is repealed. When drafting a bill to remove an agency's statutory authority to adopt rules, be sure to check which sections the agency has cited as its "general authority" and "law implemented," and ensure that the intended authority is removed or revised. Many agencies have more than one statute authorizing the adoption of rules.

## **Section 5. Amending Administrative Rule by Law**

While statutes can amend and repeal rule-making authority, statutes may not directly amend or repeal administrative rules. To do so creates confusion as to the nature of the resulting revision. Is it a statute or an administrative rule?

Generally speaking, once adopted through the rule-making process, as set forth in [SDCL chapter 1-26](#), an administrative rule is amended, suspended, or repealed through the rule-making process. See [SDCL § 1-26-6.7](#). The Legislature may direct, by means of an uncodified law, that an agency utilize the rule-making process to amend or repeal a rule, by a date certain.

# **PART XXI. APPENDIX**

## **Section 1. A Bill to Add a New Section to the Code**

101st Legislative Session

2026 South Dakota Legislature

### **Senate Bill 300**

*Introduced by: **Senator** Jackson*

**An Act to exempt from liability a hospital employee who complies with requirements for medical records.**

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

**Section 1. That a NEW SECTION be added to chapter 88-34:**

A hospital employee who complies with the requirements for providing medical records, as set forth in this chapter, may not be held liable for any injury or damage resulting from that compliance.

## **Section 2. A Bill to Add a New Subdivision to a Section of the Code**

101st Legislative Session

2026 South Dakota Legislature

### **House Bill 1200**

*Introduced by: **Representative** Van Buren*

**An Act to increase the qualifications for members of the Arboretum Board.**

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

**Section 1. That § 79-36-13 be AMENDED:**

**79-36-13.** An individual is eligible to be nominated for membership on the Arboretum Board, if the individual verifies in writing that the individual:

- (1) Is at least eighteen years of age;
- (2) Holds a baccalaureate degree in forestry; ~~and~~
- (3) Has ten years of experience in forestry management; and
- (4) Resides in this state.

## **Section 3. A Bill to Amend a Section of the Code**

101st Legislative Session

2026 South Dakota Legislature

### **Senate Bill 301**

*Introduced by: **Senator** Harrison*

**An Act to define a beekeeper.**

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

**Section 1. That § 99-13-14 be AMENDED:**

**99-13-14.** Terms used in this chapter mean:

- (1) "Apiary," the site at which one ~~colony~~ or more colonies of bees ~~is~~ are kept;
- (2) "Bee," a honey-producing insect of the genus *Apis*, at all stages of life;
- (3) "Beekeeper," an individual who, by virtue of ownership or a lease, is responsible for the maintenance of bees placed in this state;
- (4) "Colony," a familial group of adult bees consisting of drones, workers, and a queen;  
and
- ~~(4)~~ (5) "Hive," a manmade structure that houses a colony.

## **Section 4. A Bill to Amend a Section of Session Law**

101st Legislative Session

2026 South Dakota Legislature

### **House Bill 1201**

*Introduced by: **Representative** Tyler*

**An Act to make an appropriation for the revised design costs of a bioproducts facility.**

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

**Section 1. That 2023 Session Laws, chapter 547, § 4 be AMENDED:**

There is appropriated ~~\$800,000~~ \$600,000 from the general fund, to the Board of Regents, for the purpose of contracting with an architectural firm for the design of a bioproducts facility, to be located on the campus of an institution of higher education under the control of the board.

## **Section 5. A Bill to Amend a Section of a Bill Enacted Earlier in the Same Session**

101st Legislative Session

2026 South Dakota Legislature

### **Senate Bill 302**

*Introduced by: **Senator** Polk*

**An Act to modify the submission date for remittances to the Department of Revenue.**

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

**Section 1. That HB 1350, as enacted by the One Hundred First Legislature, be AMENDED:**

**Section 6.** An individual who holds a gross receipts permit shall provide a return and remittance to the Department of Revenue, on forms prescribed by the department, on or before the ~~twenty-first~~ tenth day of the month following each calendar quarter.

## **Section 6. A Bill to Remove a Subdivision from a Section of the Code**

101st Legislative Session

2026 South Dakota Legislature

### **House Bill 1202**

*Introduced by: **Representative** Taylor*

**An Act to reduce the qualifications for members of the Arboretum Board.**

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

**Section 1. That § 79-36-13 be AMENDED:**

**79-36-13.** An individual is eligible to be nominated for membership on the Arboretum Board, if the individual verifies in writing that the individual:

- (1) Is at least eighteen years of age;
- (2) Holds a baccalaureate degree in forestry;
- (3) Has ten years of experience in forestry management; and
- (4) ~~Has served for five years on the board of a national arboretum association; and~~
- (5) ~~Has experience in the tourism industry.~~
- (6) Resides in this state.

## **Section 7. A Bill to Repeal a Section of the Code**

101st Legislative Session

2026 South Dakota Legislature

### **Senate Bill 303**

*Introduced by: **Senator** Fillmore*

**An Act to repeal a provision requiring that the secretary of agriculture compile and report data regarding cooperative enterprises.**

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

**Section 1. That § 88-13-41 be REPEALED:**

~~The secretary of agriculture shall assemble, compile, and maintain files of statistical data relating to the work and progress of cooperative enterprises in this state and shall report the data to the Executive Board of the Legislative Research Council before September 1, 1975.~~

## **Section 8. A Bill to Repeal Multiple Sections of the Code**

101st Legislative Session

2026 South Dakota Legislature

### **House Bill 1203**

*Introduced by: **Representative** Pierce*

**An Act to repeal requirements for the performance of supervisory and reporting functions by the secretary of agriculture.**

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

**Section 1. That § 88-13-40 be REPEALED:**

~~The secretary of agriculture shall attend to and have supervision of all correspondence relating to advertising the resources and opportunities of the state. The secretary shall encourage investments of capital within the state and facilitate the establishment of new business enterprises in the state.~~

**Section 2. That § 88-13-41 be REPEALED:**

~~The secretary of agriculture shall assemble, compile, and maintain files of statistical data relating to the work and progress of cooperative enterprises in this state and shall report the data to the Executive Board of the Legislative Research Council before September 1, 1975.~~

## **Section 9. A Bill to Repeal a Section of Session Law**

101st Legislative Session

2026 South Dakota Legislature

### **Senate Bill 304**

*Introduced by: **Senator** Buchanan*

**An Act to repeal a requirement that the secretary of health compile data regarding fatal snake bites.**

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

**Section 1. That 2023 Session Laws, chapter 445, § 7 be REPEALED:**

~~On or before September 30, 2026, the secretary of agriculture shall assemble, compile, and maintain files of statistical data relating to fatal snake bites occurring annually in this state.~~

## **Section 10. A Bill Establishing a Civil Penalty**

101st Legislative Session

2026 South Dakota Legislature

### **House Bill 1204**

*Introduced by: **Representative** Lincoln*

**An Act to provide a civil penalty for failure to file a financial statement.**

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

**Section 1. That a NEW SECTION be added to chapter 75-16:**

The secretary of state may impose a civil penalty against any person who fails to file a financial statement, as required by this chapter. The penalty may not exceed one hundred dollars for each day the statement remains unfiled. The secretary shall forward any civil penalty collected under this section to the state treasurer, for deposit in the general fund.

## **Section 11. A Bill Containing an Effective Date**

101st Legislative Session

2026 South Dakota Legislature

### **Senate Bill 305**

*Introduced by: **Senator** Johnson*

**An Act to require that beekeepers file property owner contact information before hive placement.**

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

**Section 1. That a NEW SECTION be added to chapter 91-52:**

Before placing a hive on the property of another, a beekeeper must file, with the Department of Agriculture and Natural Resources, the name and contact information of that property owner.

**Section 2.** This Act is effective beginning January 1, 2028.

## **Section 12. A Bill Containing an Expiration Date**

101st Legislative Session

2026 South Dakota Legislature

### **House Bill 1205**

*Introduced by: **Representative** Grant*

**An Act to provide for an alternate meeting location following a natural disaster.**

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

**Section 1. That a NEW SECTION be added to chapter 73-19:**

If as a result of a natural disaster the governing body of a political subdivision is unable to meet at its usual and customary location, the governing body may meet at another location within the county or meet electronically.

**Section 2.** This Act expires on December 31, 2026.

# **Section 13. A Bill Containing an Expiration Date That Affects Only One Section**

101st Legislative Session

2026 South Dakota Legislature

## **Senate Bill 306**

*Introduced by: **Senator** Hayes*

**An Act to provide for an alternate meeting location following a natural disaster.**

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

**Section 1. That a NEW SECTION be added to chapter 73-19:**

If as a result of a natural disaster the governing body of a political subdivision is unable to meet at its usual and customary location, the governing body may meet at another location within the county or meet electronically.

**Section 2. That a NEW SECTION be added to chapter 73-19:**

Within ten days after the governing board of a political subdivision meets, the board shall post the meeting minutes on its website and provide a printed copy to any individual upon request.

**Section 3. Section 1 of this Act expires on December 31, 2026.**

## **Section 14. A Bill Containing an Emergency Clause**

101st Legislative Session

2026South Dakota Legislature

### **House Bill 1206**

Introduced by: **Representative** Garfield

**An Act to require the creation of a student attendance advisory committee and to declare an emergency.**

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

**Section 1. That a NEW SECTION be added to chapter 88-34:**

On or before March 1, 2026, the secretary of education shall appoint an advisory council to examine issues regarding student attendance in the elementary and secondary schools of this state. The council must consist of:

- (1) One superintendent representing a school district having more than five thousand students enrolled;
- (2) One principal representing a nonpublic school having fewer than two hundred students enrolled; and
- (3) Three parents having students who are at least ten years of age but less than fifteen years of age.

The secretary shall compile a report and deliver the report to the Executive Board of the Legislative Research Council before June 10, 2026.

**Section 2.** Whereas, this Act is necessary for the immediate preservation of the public peace, health, or safety, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

## **Section 15. A Bill That References Federal Statutes**

101st Legislative Session

2026 South Dakota Legislature

### **Senate Bill 307**

*Introduced by: **Senator** Arthur*

**An Act to establish requirements for the issuance of a trail use permit.**

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

**Section 1. That a NEW SECTION be added to chapter 78-46:**

Before issuing a trail use permit under this chapter, the Department of Game, Fish and Parks must verify that the applicant meets the conditions set forth in:

- (1) The Agricultural Disclosure Act, 96 U.S.C. § 4332 (January 1, 2018);
- (2) The Federal Environmental Impact Act of 1998, 97 U.S.C. § 1504, et seq., (July 31, 2019); and
- (3) The Federal Public Land Utilization Act, 98 U.S.C. §§ 1401 to 1405, inclusive, and § 1409 (January 1, 2026).

## **Section 16. A Bill That References Federal Regulations**

101st Legislative Session

2026 South Dakota Legislature

### **House Bill 1207**

*Introduced by: **Representative** Cleveland*

**An Act to establish insurance coverage requirements for breast cancer screenings.**

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

**Section 1. That § 82-33-14 be AMENDED:**

Each health maintenance contract that covers a female and is delivered, issued for delivery, or renewed in this state, must include coverage for breast cancer screening by low-dose mammography.

This section applies only to plans grandfathered under 85 C.F.R. § 54 (March 31, 2022), 89 C.F.R. §§ 2590 to 2599, inclusive, (March 31, 2023), and 90 C.F.R. §§ 147 and 148 (January 1, 2026).

## **Section 17. A Bill That Updates a Reference to a Federal Statute**

101st Legislative Session

2026 South Dakota Legislature

### **Senate Bill 308**

*Introduced by: **Senator** Harrison*

**An Act to update an Internal Revenue Code reference.**

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

**Section 1. That § 94-13-14 be AMENDED:**

Any qualified benefit must be reduced in compliance with the Internal Revenue Code of 1986, 26 U.S.C. § 664 (January 2, ~~2018~~ 2026).

## **Section 18. A Vehicle Bill**

101st Legislative Session

2026 South Dakota Legislature

### **House Bill 1208**

*Introduced by: **Representative** Cleveland*

**An Act to address school choice.**

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

**Section 1.** This bill addresses school choice.

## **Section 19. A Bill That Makes a Special Appropriation**

101st Legislative Session

2026 South Dakota Legislature

### **Senate Bill 309**

*Introduced by: **Senator McKinley***

**An Act to make an appropriation for airport infrastructure projects.**

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

**Section 1.** There is appropriated \$1,000,000 from the general fund, to the Department of Transportation, for the provision of grants to supplement local and federal funding for the following projects:

- (1) Rehabilitating or constructing pavement for airport runways and taxiways;
- (2) Building or remodeling airport arrival and departure terminals; and
- (3) Building or remodeling airport terminal systems.

**Section 2.** The South Dakota Aeronautics Commission shall advise the Department of Transportation regarding the award of grants in accordance with section 1 of this Act.

**Section 3.** The secretary of the Department of Transportation shall approve vouchers and the state auditor shall draw warrants to pay expenditures authorized in this Act.

**Section 4.** Any amounts appropriated in this Act not lawfully expended or obligated shall revert in accordance with the procedures described in chapter 4-8.

**Section 5.** This Act is effective beginning June 26, 2026.

# **Section 20. A Bill That Makes a Special Appropriation Associated with Capital Construction**

101st Legislative Session

2026 South Dakota Legislature

## **House Bill 1209**

*Introduced by: **Representative** Roosevelt*

**An Act to make an appropriation for the construction of a rodeo practice facility on the campus of South Dakota State University.**

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

**Section 1.** The Board of Regents may design, construct, furnish, and equip a rodeo practice facility, with indoor and outdoor arenas, offices and classrooms, boarding stables, and a storage shed for feed and equipment, on the campus of South Dakota State University, and provide for the inclusion of all services and actions necessary to complete the project.

**Section 2.** There is appropriated \$8,000,000 from the general fund, and \$10,000,000 in other fund expenditure authority for moneys accepted pursuant to section 3 of this Act, to the Board of Regents, for the purposes authorized in section 1 of this Act.

**Section 3.** The Board of Regents may accept moneys obtained for the project from gifts, grants, or donations, all of which comprise a special fund for the benefited project. The board may only expend moneys up to the limit prescribed in section 2 of this Act.

**Section 4.** The administration of the design and construction of the project authorized in this Act shall be under the general charge and supervision of the Bureau of Human Resources and Administration, as provided in chapter 5-14.

**Section 5.** The executive director of the Board of Regents shall approve vouchers and the state auditor shall draw warrants to pay expenditures authorized in this Act.

**Section 6.** Any amounts appropriated in this Act not lawfully expended or obligated shall revert in accordance with the procedures described in chapter 4-8.

**Section 7.** This Act is effective beginning June 28, 2026.

# **Section 21. A Bill That Makes an Appropriation Involving Multiple Funds**

101st Legislative Session

2026 South Dakota Legislature

## **Senate Bill 310**

*Introduced by: **Senator Taft***

**An Act to make an appropriation for improving Capitol Lake and the surrounding grounds.**

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

**Section 1.** There is appropriated \$3,200,000 from the general fund, and \$2,000,000 from the maintenance of buildings and grounds fund, to the Bureau of Human Resources and Administration, for securing the defective well supplying water to Capitol Lake, replacing the water source for Capitol Lake, and accommodating additional memorials and improvements around Capitol Lake.

**Section 2.** The Capitol Complex Restoration and Beautification Commission shall oversee the expenditure of funds authorized in this Act.

**Section 3.** The commissioner of the Bureau of Human Resources and Administration shall approve vouchers and the state auditor shall draw warrants to pay expenditures authorized in this Act.

**Section 4.** Any amounts appropriated in this Act not lawfully expended or obligated shall revert in accordance with the procedures described in chapter 4-8.

**Section 5.** This Act is effective beginning June 28, 2026.

## **Section 22. A Bill That Makes an Appropriation Involving Multiple Agencies**

101st Legislative Session

2026 South Dakota Legislature

### **House Bill 1210**

*Introduced by: **Representative** Wilson*

**An Act to make an appropriation for aerial predator control.**

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

**Section 1.** There is appropriated \$150,000 from the general fund, to the Department of Game, Fish and Parks, for aerial predator control.

**Section 2.** There is appropriated \$90,000 from the general fund, to the Department of Agriculture and Natural Resources, for aerial predator control.

**Section 3.** The secretary of the Department of Game, Fish and Parks shall approve vouchers and the state auditor shall draw warrants to pay expenditures authorized in section 1 of this Act.

**Section 4.** The secretary of the Department of Agriculture and Natural Resources shall approve vouchers and the state auditor shall draw warrants to pay expenditures authorized in section 2 of this Act.

**Section 5.** Any amounts appropriated in this Act not lawfully expended or obligated shall revert in accordance with the procedures described in chapter 4-8.

**Section 6.** This Act is effective beginning June 28, 2026.

## **Section 23. A Bill That Makes a Continuous Appropriation**

101st Legislative Session

2026 South Dakota Legislature

### **Senate Bill 311**

*Introduced by: **Senator** Harding*

**An Act to create the conservation district special revenue fund and make an appropriation therefor.**

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

**Section 1. That a NEW SECTION be added to chapter 38-8:**

There is created in the state treasury the conservation district special revenue fund. The fund consists of all moneys designated for deposit in the fund.

The State Conservation Commission shall administer the fund. The purpose of the fund is to aid, assist, and cooperate with conservation districts through securing, by purchase or otherwise, necessary equipment, trees, planting materials, and supplies, to further conservation programs in the districts.

Interest on moneys credited to the fund must remain in the fund.

Any repayment of the principal amount of a loan and any interest thereon must be deposited into the fund by the administrator and used for making new loans.

The conservation district special revenue fund is continuously appropriated to the State Conservation Commission.

## **Section 24. A Bill That Amends a Previous Appropriation**

101st Legislative Session

2026 South Dakota Legislature

### **House Bill 1211**

*Introduced by: **Representative** Coolidge*

**An Act to amend an appropriation for a state public health laboratory and to declare an emergency.**

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

**Section 1. That 2023 Session Laws, chapter 297, § 2 be AMENDED:**

There is appropriated—~~\$20,000,000~~ \$15,000,000 from the general fund, to the Department of Health, for the purpose authorized in section 1 of this Act.

**Section 2.** Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this Act is in full force and effect from and after its passage and approval.

## **Section 25. A Bill That Creates a Fund**

101st Legislative Session

2026 South Dakota Legislature

### **Senate Bill 312**

*Introduced by: **Senator Hoover***

**An Act to create the technology fund and make an appropriation therefor.**

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

**Section 1. That a NEW SECTION be added to chapter 1-33:**

There is created in the state treasury the technology fund. The Bureau of Information and Telecommunications shall administer the fund. The purpose of the fund is to update or replace applications and programs that are difficult or costly to fix or that have a propensity to fail regularly.

Interest on moneys credited to the fund must be deposited into the general fund. Expenditures from the fund require a special appropriation.

**Section 2.** The state treasurer shall transfer \$10,000,000 from the general fund to the technology fund created in section 1 of this Act.

**Section 3.** There is appropriated \$5,000,000 from the technology fund created in section 1 of this Act, to the Bureau of Information and Telecommunications, for the purpose described in section 1 of this Act.

**Section 4.** The commissioner of the Bureau of Information and Telecommunications shall approve vouchers and the state auditor shall draw warrants to pay expenditures authorized in this Act.

**Section 5.** Any amounts appropriated in this Act not lawfully expended or obligated shall revert in accordance with the procedures described in chapter 4-8.

**Section 6.** This Act is effective beginning June 26, 2026.

# **Section 26. A Bill That Transfers Moneys and Makes an Appropriation**

101st Legislative Session

2026 South Dakota Legislature

## **House Bill 1212**

*Introduced by: **Representative** Roosevelt*

**An Act to authorize the construction of a prison, make an appropriation therefor, and transfer moneys to the incarceration construction fund.**

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

**Section 1.** The Department of Corrections may design, construct, furnish, and equip a prison for offenders committed to the Department of Corrections.

**Section 2.** The state treasurer shall transfer \$87,031,734 from the general fund, and \$183,685,079 from the general revenue replacement fund, to the incarceration construction fund.

**Section 3.** There is appropriated \$25,359,554 from the general fund, and \$26,640,449 in other fund expenditure authority from the incarceration construction fund, to the Department of Corrections, for the purposes authorized in section 1 of this Act.

**Section 4.** The administration of the design and construction of the project authorized in this Act shall be under the general charge and supervision of the Bureau of Human Resources and Administration, as provided in chapter 5-14.

**Section 5.** The secretary of the Department of Corrections shall approve vouchers and the state auditor shall draw warrants to pay expenditures authorized in this Act.

**Section 6.** Any amounts appropriated in this Act not lawfully expended or obligated shall revert in accordance with the procedures described in chapter 4-8.

**Section 7.** This Act is effective beginning June 28, 2026.

## **Section 27. A Bill That Directs the Amendment of an Administrative Rule**

101st Legislative Session

2026 South Dakota Legislature

### **Senate Bill 313**

*Introduced by: **Senator Truman***

**An Act to direct the amendment of the Administrative Rules of South Dakota regarding cooperation with the Division of Child Support.**

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

**Section 1.** No later than September 30, 2026, the Department of Social Services shall, pursuant to chapter 1-26, provide for and file with the secretary of state, the amendment of § 67:47:01:09.01, as set forth below:

**67:47:01:09.01. Cooperation with Division of Child Support as condition of eligibility.** ~~Recipients~~ A recipient of child care assistance ~~must~~ shall cooperate with the department in identifying and locating the absent parent or parents, obtaining support payments, establishing paternity, ~~or~~ and obtaining any other payments or resources legally due to applicants or recipients. A recipient must complete an application for enforcement services with the Division of Child Support as a condition of eligibility for child care services. Failure to comply with this requirement or failure to maintain an active enforcement case may be considered an intentional program violation and may result in ineligibility for child care assistance services.

The provisions of this rule do not apply if the recipient can establish good cause for refusing to cooperate. Good cause is determined according to §§ 67:10:01:27 to 67:10:01:34, inclusive.

**Source:** 22 SDR 188, effective July 8, 1996; 24 SDR 30, effective September 14, 1997; 37 SDR 236, effective June 28, 2011; 45 SDR 82, effective December 10, 2018.

**General Authority:** SDCL 28-1-61(1).

**Law Implemented:** SDCL 28-1-60.

# **Section 28. A Bill That Directs the Repeal of an Administrative Rule**

101st Legislative Session

2026 South Dakota Legislature

## **House Bill 1213**

Introduced by: **Representative** Eisenhower

**An Act to direct the repeal of a section of the Administrative Rules of South Dakota regarding cooperation with the Division of Child Support.**

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

**Section 1.** No later than September 30, 2026, the Department of Social Services shall, pursuant to chapter 1-26, provide for and file with the secretary of state, the repeal of § 67:47:01:09.01, as set forth below:

**67:47:01:09.01. Cooperation with Division of Child Support as condition of eligibility.** ~~Recipients of child care assistance must cooperate with the department in identifying and locating the absent parent or parents, obtaining support payments, establishing paternity, or obtaining any other payments or resources legally due applicants or recipients. A recipient must complete an application for enforcement services with the Division of Child Support as a condition of eligibility for child care services. Failure to comply with this requirement or failure to maintain an active enforcement case may be considered an intentional program violation and may result in ineligibility for child care assistance services.~~

~~The provisions of this rule do not apply if the recipient can establish good cause for refusing to cooperate. Good cause is determined according to §§ 67:10:01:27 to 67:10:01:34, inclusive.~~ Repealed.

**Source:** 22 SDR 188, effective July 8, 1996; 24 SDR 30, effective September 14, 1997; 37 SDR 236, effective June 28, 2011; 45 SDR 82, effective December 10, 2018.

**General Authority:** ~~SDCL 28-1-61(1).~~

**Law Implemented:** ~~SDCL 28-1-60.~~

# **Section 29. A Joint Resolution Proposing an Amendment to One Section of the South Dakota Constitution**

101st Legislative Session

2026 South Dakota Legislature

## **House Joint Resolution 5001**

*Introduced by: **Representative** Nixon*

**A JOINT RESOLUTION proposing and submitting to the voters at the next general election an amendment to the Constitution of the State of South Dakota, changing the name of the state.**

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

**Section 1.** That at the next general election held in the state, the following amendment to Article I of the Constitution of the State of South Dakota, as set forth in section 2 of this Joint Resolution, which is hereby agreed to, be submitted to the electors of the state for approval.

**Section 2. That Article I, § 1 of the Constitution of the State of South Dakota, be AMENDED:**

**§ 1.** The name of the state ~~shall be South~~ is Dakota.

# **Section 30. A Joint Resolution Proposing an Amendment to multiple sections of the South Dakota Constitution**

101st Legislative Session

2026 South Dakota Legislature

## **House Joint Resolution 5002**

*Introduced by: **Representative Nixon***

**A JOINT RESOLUTION proposing and submitting to the voters at the next general election an amendment to the Constitution of the State of South Dakota, changing the name of the state.**

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

**Section 1.** That at the next general election held in the state, the following amendment to Article I of the Constitution of the State of South Dakota, as set forth in sections 2 and 3 of this Joint Resolution, which is hereby agreed to, be submitted to the electors of the state for approval.

**Section 2. That Article I, § 1 of the Constitution of the State of South Dakota, be AMENDED:**

§ 1. The name of the state ~~shall be South~~ is Dakota.

**Section 3. That Article I, § 2 of the Constitution of the State of South Dakota, be AMENDED:**

§ 2. The boundaries of the state of ~~South~~ Dakota . . . .

# **Section 31. A Joint Resolution for an Article V Convention to Propose Amendments to the U.S. Constitution**

101st Legislative Session

2026 South Dakota Legislature

## **Senate Joint Resolution 502**

*Introduced by: **Representative** Carter*

**A JOINT RESOLUTION applying to the United States Congress for a convention of the states to propose amendments to the United States Constitution regarding the imposition of fiscal restraints on the federal government.**

WHEREAS, the U.S. Const., Art. V, requires that the United States Congress call a convention, upon the application of the legislatures of two-thirds of the several states, for the purpose of proposing amendments to the United States Constitution; and

WHEREAS, the federal government, by engaging in unrestrained and unrestricted spending, has created unsustainable increases in the national debt;

NOW, THEREFORE, BE IT RESOLVED, by the Senate of the One Hundred First Legislature of the State of South Dakota, the House of Representatives concurring therein, that the South Dakota Legislature submits this application, as provided for by the U.S. Const., Art. V, to the Congress of the United States, seeking a convention of the several states for the purpose of proposing amendments to the United States Constitution to impose fiscal restraints on the federal government; and

BE IT FURTHER RESOLVED, that this application constitutes a continuing application in accordance with U.S. Const., Art. V, until the legislatures of two-thirds of the several states have made applications to Congress seeking a convention for the purpose of proposing amendments to the United States Constitution; and

BE IT FURTHER RESOLVED, that the secretary of state forward copies of this application to the president and secretary of the United States Senate, to the speaker and clerk of the United States House of Representatives, to the chairman of the Judiciary Committee of the United States House of Representatives, and to the presiding officers of each legislative house in the several states.

## **Section 32. A Concurrent Resolution**

101st Legislative Session

2026 South Dakota Legislature

### **Senate Concurrent Resolution 601**

*Introduced by: **Senator Reagan***

**A CONCURRENT RESOLUTION urging the federal aviation administration to limit the size of luggage brought onboard aircraft.**

WHEREAS, domestic air travel continues to increase at an annual rate in excess of five percent; and

WHEREAS, passengers flying domestically prefer to carry their luggage on board rather than check their luggage with their carrier; and

WHEREAS, overhead storage bins in aircrafts do not have the capacity to accommodate each passenger's luggage;

NOW, THEREFORE, BE IT RESOLVED, by the Senate of the One Hundred First Legislature of the State of South Dakota, the House of Representatives concurring therein, that the federal aviation administration be urged to regulate the size of luggage that each passenger may bring onboard an aircraft.

## **Section 33. A Resolution**

101st Legislative Session

2026 South Dakota Legislature

### **Senate Resolution 701**

*Introduced by: **Senator Johnson***

**A RESOLUTION urging the pursuit of solutions to address the challenge of caring for individuals with Alzheimer's disease.**

WHEREAS, Alzheimer's disease is often viewed as a disease of the elderly; and

WHEREAS, an individual with Alzheimer's disease can pose multiple and significant challenges to caregivers; and

WHEREAS, seventeen thousand individuals in this state are living with Alzheimer's disease; and

WHEREAS, approximately thirty-eight thousand South Dakotans, including family members, friends, and neighbors, provide care to an individual with Alzheimer's disease;

NOW, THEREFORE, BE IT RESOLVED, by the Senate of the One Hundred First Legislature of the State of South Dakota, that various public and private sector entities and associations be urged to pursue medical solutions that will begin to address Alzheimer's disease and pursue practical solutions to assist all caregivers in their efforts.

## **Section 34. A Resolution of Disapproval**

101st Legislative Session

2026 South Dakota Legislature

### **House Resolution of Disapproval 9091**

*Introduced by: **Representative Bush***

**A RESOLUTION proposing to disapprove Executive Order 2026-03 as set forth on pages 52 to 64, inclusive, of the House Journal.**

WHEREAS, the Governor of the State of South Dakota has submitted to the One Hundred First Legislature, on the fifth day thereof, Executive Order 2026-03; and

WHEREAS, Executive Order 2026-03 proposes to abolish the Department of Education; and

WHEREAS, the administration of public education in this state is critical to the development of all children and to the future wellbeing of the state; and

WHEREAS, forty-nine other states recognize the value of having a Department of Education; and

WHEREAS, eliminating the Department of Education will transfer administrative duties to personnel in other state agencies, and negatively impact the effectiveness of those other agencies;

NOW, THEREFORE, BE IT RESOLVED, by the House of Representatives of the One Hundred First Legislature of the State of South Dakota, that Executive Order 2026-03 presented to the One Hundred First Legislature as the same appears in the House Journal on pages 52 to 64, inclusive, is disapproved, pursuant to S.D. Const., Art. IV, § 8.

## **Section 35. A Commemoration**

101st Legislative Session

### **2026 South Dakota Legislature**

## **House Commemoration 8001**

*Introduced by: **Representative** Kennedy*

**A LEGISLATIVE COMMEMORATION celebrating John and Abigail Adams on the occasion of their seventy-first wedding anniversary.**

WHEREAS, in the year 1954, when Elizabeth acceded to the throne of the United Kingdom, the New York Yankees defeated the Brooklyn Dodgers to win the World Series, "Singing in the Rain" was playing in theaters across the country, and the cost of a first-class stamp was three cents, a beautiful young woman named Abigail married a dashing young man named John; and

WHEREAS, that special day in Braintree, Massachusetts, was both the culmination of a romantic relationship that began when both Abigail and John were in elementary school and the beginning of an adventure together that transcended decades; and

WHEREAS, after sharing their lives with six children, twelve grandchildren, and twenty-seven great-grandchildren, Abigail and John have much for which to be thankful, much to celebrate, and much to still eagerly anticipate in the years to come;

NOW, THEREFORE, BE IT COMMEMORATED, by the One Hundred First Legislature of the State of South Dakota, that on January 31, 2026, Abigail and John will have shared the incredible adventure of their lives together in marriage, side-by-side, and hand-in-hand, for seventy-one years.