

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

606D0131 **SENATE AGRICULTURE AND NATURAL RESOURCES**
COMMITTEE ENGROSSED NO. HB1096 - 2/11/00

Introduced by: Representatives Wetz, Apa, Brown (Richard), Diedrich (Larry), Duenwald, Earley, Eccarius, Hunt, Jaspers, Konold, Koskan, Lintz, McNenny, Napoli, Pummel, Sutton (Duane), and Young and Senators Madden, Brown (Arnold), Drake, Dunn (Jim), Everist, Kleven, and Vitter

1 FOR AN ACT ENTITLED, An Act to assign liability for certain attempts to prevent or delay
2 the control or eradication of weeds or the mountain pine beetle.

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

4 Section 1. If any person or entity takes legal action in any form to prevent or delay any
5 federal, state, or local government agency or any person from attempting to control or eradicate
6 an infestation of weeds, as defined by state law, or an infestation of the mountain pine beetle on
7 any public land, including federal land for which a state or local government agency has applied
8 for permission to attempt to control or eradicate such an infestation, and if the infestation
9 subsequently spreads to adjacent private land, the person or entity that brought such legal action
10 is liable to the owner of the private land for damages resulting from the infestation.

1 **BILL HISTORY**

2 1/15/00 First read in House and referred to committee assignment waived. H.J. 59

3 1/18/00 Referred to Agriculture and Natural Resources. H.J. 120

4 1/25/00 Scheduled for Committee hearing on this date.

5 1/25/00 Agriculture and Natural Resources Do Pass Amended, Passed, AYES 13, NAYS 0.

6 H.J. 220

7 1/27/00 House of Representatives Deferred to another day. H.J. 273

8 1/31/00 House of Representatives Do Pass Amended, Passed, AYES 61, NAYS 6. H.J. 311

9 2/1/00 First read in Senate and referred to Agriculture and Natural Resources. S.J. 275

10 2/8/00 Scheduled for Committee hearing on this date.

11 2/10/00 Scheduled for Committee hearing on this date.

12 2/10/00 Agriculture and Natural Resources Do Pass Amended, Passed, AYES 6, NAYS 2.

13 S.J. 406

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

463D0549

SENATE STATE AFFAIRS COMMITTEE

ENGROSSED NO. **HB1101** - 2/14/00

Introduced by: Representatives Michels, Apa, Chicoine, Duniphan, Engbrecht, Hennies, Koehn, McCoy, Napoli, Sutton (Duane), and Wilson and Senators Olson, Everist, Hutmacher, Munson (David), Reedy, Shoener, and Stagers

1 FOR AN ACT ENTITLED, An Act to revise the grounds for revocation or suspension of an
2 alcoholic beverage license and to provide for the revocation of driving privileges upon a
3 conviction for unlawful sales or purchases of alcoholic beverages involving persons under
4 the age of twenty-one.

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

6 Section 1. That chapter 35-2 be amended by adding thereto a NEW SECTION to read as
7 follows:

8 No retail license may be revoked or suspended because of a violation of any statute,
9 ordinance, rule, or regulation prohibiting the sale or service of any alcoholic beverage to a person
10 under the age of twenty-one years if the violation was committed by an employee or agent of the
11 licensee and:

- 12 (1) The licensee did not see the violation occur;
- 13 (2) The employee or agent has been certified by a nationally recognized training program
14 approved by the Department of Revenue that provides instruction on techniques to
15 prevent persons under the age of twenty-one years from purchasing or consuming

1 alcoholic beverages;

2 (3) The licensee has a written policy requiring the licensee's employees or agents to
3 examine the driver's license or other age-bearing identification document of any
4 person who appears to be under the age of twenty-one years before selling or serving
5 any alcoholic beverage to that person, and the employee or agent has agreed in
6 writing to abide by the policy;

7 (4) The employee or agent has not been convicted of a similar violation within the past
8 twelve months; and

9 (5) The licensee has not had any prior violation of any statute, ordinance, rule, or
10 regulation prohibiting the sale or service of an alcoholic beverage to a person under
11 the age of twenty-one years on the premise where the violation occurred in the
12 previous twelve months.

13 Section 2. That chapter 35-9 be amended by adding thereto a NEW SECTION to read as
14 follows:

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

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

1 **BILL HISTORY**

2 1/15/00 First read in House and referred to committee assignment waived. H.J. 60

3 1/18/00 Referred to State Affairs. H.J. 120

4 1/21/00 Scheduled for Committee hearing on this date.

5 1/24/00 Scheduled for Committee hearing on this date.

6 1/24/00 State Affairs Do Pass Amended, Passed, AYES 11, NAYS 2. H.J. 191

7 1/26/00 House of Representatives Do Pass Amended, Passed, AYES 62, NAYS 6. H.J. 255

8 1/27/00 First read in Senate and referred to State Affairs. S.J. 231

9 2/9/00 Scheduled for Committee hearing on this date.

10 2/9/00 Deferred by Chair.

11 2/11/00 Scheduled for Committee hearing on this date.

12 2/11/00 State Affairs Do Pass Amended, Passed, AYES 6, NAYS 0. S.J. 446

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

349D0613

SENATE ENGROSSED NO. **HB1194** - 2/16/00

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

Introduced by: Representatives Wilson, Cutler, Duniphan, and Fischer-Clemens and Senators Daugaard and Flowers

1 FOR AN ACT ENTITLED, An Act to provide for the issuance of a protection order in the case
2 of certain crimes of violence or assaults.

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

4 Section 1. Any person who has suffered physical injury as a result of an assault or a crime
5 of violence as defined in subdivision 22-1-2(9) may petition the court for a protection order. The
6 petition shall be accompanied by an affidavit made under oath stating the specific facts and
7 circumstances of the injury and the acts which caused the injury. The petition shall be governed
8 by the procedures and penalties described in §§ 22-19A-8 to 22-19A-16, inclusive.

9 Section 2. That § 22-19A-8 be amended to read as follows:

10 22-19A-8. There exists an action known as a petition for a protection order in cases of
11 stalking or physical injury as a result of an assault or a crime of violence as defined in subdivision
12 22-1-2(9). Procedures for the action are as follows:

13 (1) A petition under this section may be made against any person who violates
14 § 22-19A-1 or against any other person against whom stalking or physical injury is
15 alleged;

16 (2) A petition shall allege the existence of stalking or physical injury and shall be

1 accompanied by an affidavit made under oath stating the specific facts and
2 circumstances of the stalking or physical injury;

3 (3) A petition for relief may be made whether or not there is a pending lawsuit, complaint,
4 petition, or other action between the parties;

5 (4) If a petitioner files an affidavit with the petition stating that the petitioner does not
6 have the funds available to pay the cost of filing and service, the petition shall be filed
7 and served without payment of costs. If a petition is filed and served without payment
8 of costs, the court shall determine at the hearing described in § 22-19A-11 if the
9 petitioner is indigent. If the court finds that the petitioner is not indigent, the court
10 may order the petitioner to pay the costs of filing and service.

11 The clerk of the circuit court shall make available standard petition forms with instructions
12 for completion to be used by a petitioner. The attorney general shall prepare the standard petition
13 form.

14 Section 3. That § 22-19A-11 be amended to read as follows:

15 22-19A-11. Upon notice and a hearing, if the court finds by a preponderance of the evidence
16 that stalking has taken place, the court may provide relief as follows:

17 (1) Restrain any party from committing acts of stalking or physical injury as a result of
18 an assault or a crime of violence as defined in subdivision 22-1-2(9);

19 (2) Order other relief as the court deems necessary for the protection of the person
20 seeking the protection order, including orders or directives to law enforcement
21 officials.

22 Any relief granted by the order for protection shall be for a fixed period and may not exceed
23 three years.

24 Section 4. That § 22-19A-12 be amended to read as follows:

25 22-19A-12. If an affidavit filed with an application under § 22-19A-8 alleges that immediate

1 and irreparable injury, loss, or damage is likely to result before an adverse party or the party's
2 attorney can be heard in opposition, the court may grant an ex parte temporary protection order
3 pending a full hearing and granting relief as the court deems proper, including an order
4 restraining any person from committing acts of stalking or physical injury as a result of an assault
5 or a crime of violence as defined in subdivision 22-1-2(9). An ex parte temporary protection
6 order is effective for a period of thirty days. The respondent shall be personally served forthwith
7 with a copy of the ex parte order along with a copy of the petition, affidavit, and notice of the
8 date set for the hearing.

1 **BILL HISTORY**

2 1/19/00 First read in House and referred to committee assignment waived. H.J. 140

3 1/20/00 Referred to Judiciary.

4 1/28/00 Scheduled for Committee hearing on this date.

5 1/28/00 Deferred by Chair.

6 1/31/00 Scheduled for Committee hearing on this date.

7 2/2/00 Judiciary Hog Housed.

8 2/2/00 Scheduled for Committee hearing on this date.

9 2/2/00 Judiciary Do Pass Amended, Passed, AYES 13, NAYS 0. H.J. 362

10 2/4/00 House of Representatives Deferred to another day. H.J. 433

11 2/7/00 House of Representatives Do Pass Amended, Passed, AYES 65, NAYS 1. H.J. 455

12 2/8/00 First read in Senate and referred to Taxation. S.J. 359

13 2/11/00 Scheduled for Committee hearing on this date.

14 2/11/00 Taxation Do Pass, Passed, AYES 9, NAYS 0. S.J. 434

15 2/14/00 Senate Deferred to another day. S.J. 467

16 2/15/00 Motion to Amend, Passed. S.J. 508

17 2/15/00 Senate Do Pass Amended, Passed, AYES 33, NAYS 1. S.J. 510

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

951D0690

SENATE ENGROSSED NO. **HB1293** - 2/16/00

Introduced by: Representatives Derby, Duniphan, Fiegen, and Peterson and Senator Hainje

1 FOR AN ACT ENTITLED, An Act to revise the procedure to determine if real estate taxes have
2 been paid before the date due.

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

4 Section 1. That § 10-21-23 be amended to read as follows:

5 10-21-23. On the first day of May of the year after which taxes have been assessed, one-half
6 of all unpaid real estate taxes are delinquent. However, all real estate taxes totaling fifty dollars
7 or less shall be paid in full on or before April thirtieth. On the first day of each month thereafter
8 there shall be added as interest on the delinquent taxes at the Category B rate of interest as
9 established in § 54-3-16. If the other half is not paid on or before the thirty-first day of October
10 of the same year, that also becomes delinquent on November first and the same interest shall
11 attach in the same manner. If the last day of April or October falls on a Saturday or Sunday, the
12 tax is due and payable on the last working day of that month. The tax payment shall either be
13 received in the office on the last working day or the tax payment shall be postmarked by the last
14 day prior to the taxes becoming delinquent.

1 **BILL HISTORY**

2 1/24/00 First read in House and referred to committee assignment waived. H.J. 201

3 1/25/00 Referred to Local Government.

4 2/1/00 Scheduled for Committee hearing on this date.

5 2/1/00 Local Government Do Pass Amended, Passed, AYES 10, NAYS 3. H.J. 337

6 2/3/00 House of Representatives Deferred to another day. H.J. 401

7 2/4/00 House of Representatives Deferred to another day. H.J. 433

8 2/7/00 House of Representatives Do Pass Amended, Passed, AYES 58, NAYS 8. H.J. 444

9 2/8/00 First read in Senate and referred to Taxation. S.J. 360

10 2/11/00 Scheduled for Committee hearing on this date.

11 2/11/00 Taxation Do Pass, Passed, AYES 8, NAYS 0. S.J. 434

12 2/11/00 Taxation Place on Consent Calendar.

13 2/15/00 Motion to Amend, Passed. S.J. 507

14 2/15/00 Senate Do Pass Amended, Passed, AYES 32, NAYS 0. S.J. 507

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

400D0351

SENATE EDUCATION COMMITTEE ENGROSSED NO. **SB28** - 1/28/00

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

1 FOR AN ACT ENTITLED, An Act to provide payment of tuition costs to education programs
2 for students in governmental custody and to eliminate certain payments to educational
3 programs operated by public school districts.

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

5 Section 1. That § 13-28-39 be amended to read as follows:

6 13-28-39. The Department of Social Services shall pay tuition costs and related service costs
7 for students in residential treatment centers or group care centers for minors ~~who~~ when the
8 educational program is not operated by a public school district and the students are under the
9 care and custody of the Department of Social Services, the ~~Unified Judicial System~~ Department
10 of Corrections, or other entities approved by the secretary of the Department of Social Services.
11 For students with disabilities residing in a foster home, the Department of Social Services shall
12 pay for special education or special education and related services. Students residing in foster
13 homes must be in the care and custody of the Department of Social Services, the ~~Unified Judicial~~
14 ~~System~~ Department of Corrections, or other entities approved by the secretary of the
15 Department of Social Services. The Department of Social Services ~~will have rate setting~~
16 authority may set rates for tuition costs and related service costs.

1 The secretary of the Department of Social Services may promulgate rules, pursuant to
2 chapter 1-26, pertaining to:

- 3 (1) The amount, scope, and duration of services;
- 4 (2) The basis for and extent of provider payments;
- 5 (3) The method and amount of payment;
- 6 (4) The methods of recoupment or recovery of overpayments;
- 7 (5) Administration, record keeping, and audit requirements;
- 8 (6) Compliance monitoring;
- 9 (7) Reporting requirement; and
- 10 (8) Such other standards and requirements as may be necessary to ensure the efficient
11 operation and administration of the program.

1 **BILL HISTORY**

2 1/11/00 First read in Senate and referred to Education. S.J. 19

3 1/13/00 Scheduled for Committee hearing on this date.

4 1/18/00 Scheduled for Committee hearing on this date.

5 1/18/00 Education Do Pass, Passed, AYES 4, NAYS 2. S.J. 68

6 1/18/00 Referred to Education. S.J. 69

7 1/20/00 Scheduled for Committee hearing on this date.

8 1/27/00 Scheduled for Committee hearing on this date.

9 1/27/00 Education Do Pass Amended, Passed, AYES 7, NAYS 0. S.J. 219

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

400D0318

HOUSE AGRICULTURE AND NATURAL RESOURCES

COMMITTEE ENGROSSED NO. **SB30** - 2/16/00

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

1 FOR AN ACT ENTITLED, An Act to revise the procedures and causes for revocation of certain
2 hunting, fishing, and trapping privileges, and to provide a penalty.

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

4 Section 1. That § 41-6-74.1 be amended to read as follows:

5 41-6-74.1. ~~The court shall revoke a person's hunting, fishing, or trapping privilege for a~~
6 ~~period of one year following the~~ At the time of conviction for any one of the following offenses:

- 7 (1) Violation of any game and fish law punishable as a ~~felony~~ or Class 1 misdemeanor;
- 8 (2) Violation of § 41-8-37, 41-9-1.2, 41-8-17 except for subsections (2) and (3) thereof,
9 or 41-12-12;
- 10 (3) Violation of any other ~~law~~ statute or rule pertaining to fishing, hunting, or possessing
11 game or game fish without a license or during a closed season; or
- 12 (4) Taking or possessing in excess of the lawful daily or possession limit:
- 13 (a) One or two paddlefish;
- 14 (b) Two or three turkeys;
- 15 (c) Four to six, inclusive, of any one game fish as regulated other than paddlefish;
- 16 (d) Four to six, inclusive, of any one small game animal as regulated;

1 the person's applicable hunting, fishing, or trapping privileges in South Dakota are automatically
2 revoked without further hearing for a period of one year following date of conviction.

3 Section 2. That § 41-6-74.2 be amended to read as follows:

4 41-6-74.2. ~~The court shall revoke a person's hunting, fishing, or trapping privilege for a~~
5 ~~period of two to five years, inclusive, following the~~ At the time of conviction for taking or
6 possessing in excess of the lawful daily or possession limit any of the following:

- 7 (1) Three or more paddlefish;
- 8 (2) Four or more turkeys;
- 9 (3) Seven or more of any one game fish as regulated other than paddlefish;
- 10 (4) Seven or more of any one small game animal as regulated; or
- 11 (5) Two or more big animals, except turkeys;

12 the person's applicable hunting, fishing, or trapping privileges in South Dakota are automatically
13 revoked without further hearing for a period of three years following date of conviction.

14 Section 3. That § 41-6-74.3 be amended to read as follows:

15 41-6-74.3. If a person's ~~license~~ privilege has been revoked pursuant to § 41-6-74.1 or
16 41-6-74.2, the ~~court shall require the license holder to~~ person, if present at the time of
17 conviction, shall immediately surrender and deliver the license to the court or clerk of courts at
18 which time the revocation shall be noted on the face of the license by the court or clerk of courts
19 and the license returned to the Department of Game, Fish and Parks. If the person is not present
20 at the time of conviction, the person shall within fourteen days of the conviction deliver and
21 return the license to the Department of Game, Fish and Parks. A violation of this section is a
22 Class 2 misdemeanor. If the person has a combination license, the revocation shall be noted on
23 the face of the license and the license shall be returned to the person to remain valid for the other
24 purposes permitted by the license. For the purposes of §§ 41-6-74.1 and 41-6-74.2, the term,
25 conviction, is defined as provided in § 32-12-53.

1 **BILL HISTORY**

2 1/11/00 First read in Senate and referred to Judiciary. S.J. 19

3 1/14/00 Scheduled for Committee hearing on this date.

4 1/14/00 Judiciary Do Pass Amended, Passed, AYES 6, NAYS 0. S.J. 42

5 1/18/00 Motion to Amend, Passed. S.J. 78

6 1/18/00 Senate Do Pass Amended, Passed, AYES 19, NAYS 13. S.J. 78

7 1/19/00 First read in House and referred to Judiciary. H.J. 150

8 1/26/00 House of Representatives Referred to Agriculture and Natural Resources. H.J. 246

9 2/15/00 Scheduled for Committee hearing on this date.

10 2/15/00 Agriculture and Natural Resources Do Pass Amended, Passed, AYES 12, NAYS 0.

11 H.J. 664

12 2/15/00 Agriculture and Natural Resources Place on Consent Calendar.

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

781D0465

HOUSE TAXATION COMMITTEE ENGROSSED NO. **SB51** - 2/16/00

Introduced by: Senators Bogue, Daugaard, Everist, and Olson and Representatives Michels, Brown (Richard), and Hunt

1 FOR AN ACT ENTITLED, An Act to revise the provisions concerning the imposition and
2 administration of the inheritance tax.

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

4 Section 1. That chapter 10-41 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 If the inheritance tax has not been paid within one year after the date of death of the decedent
7 and it appears to the satisfaction of the secretary of revenue that the failure to pay such tax
8 within one year after the decedent's death is due to the difficulty or impossibility of identifying
9 the heirs of the decedent, the secretary may waive or compromise the interest on such tax from
10 the date when first accrued until such time as, in the judgment of the secretary, such cause is
11 removed.

12 Section 2. That § 10-40-2 be amended by adding thereto a NEW SUBDIVISION to read as
13 follows:

14 Intangible personal property owned by a nonresident of South Dakota is not subject to the
15 tax imposed by this section. Intangible personal property held by a revocable or irrevocable trust,
16 which property was transferred to the trust by a decedent who was a nonresident of South

1 Dakota both at the time that such property was transferred to the trust and at the time of death
2 is not subject to the tax imposed by this section. Nothing contained in this subdivision may be
3 construed to alter or affect existing laws concerning transfers by residents of South Dakota.

1 **BILL HISTORY**

2 1/14/00 First read in Senate and referred to Taxation. S.J. 46

3 1/21/00 Scheduled for Committee hearing on this date.

4 1/21/00 Taxation Do Pass Amended, Passed, AYES 9, NAYS 0. S.J. 135

5 1/21/00 Taxation Place on Consent Calendar.

6 1/25/00 Senate Do Pass Amended, Passed, AYES 35, NAYS 0. S.J. 187

7 1/26/00 First read in House and referred to Taxation. H.J. 260

8 2/15/00 Scheduled for Committee hearing on this date.

9 2/15/00 Taxation Do Pass Amended, Passed, AYES 11, NAYS 1. H.J. 665

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

807D0517

SENATE TRANSPORTATION COMMITTEE

ENGROSSED NO. **SB65** - 1/26/00

Introduced by: Senators Flowers, Dunn (Jim), Duxbury, Hutmacher, Lawler, Madden, Munson (David), Reedy, Rounds, Shoener, Symens, and Vitter and Representatives Putnam, Cerny, Kazmerzak, Konold, Napoli, Sutton (Duane), and Volesky

1 FOR AN ACT ENTITLED, An Act to authorize the Department of Revenue to issue transporter
2 plates for persons hauling new trailers or new or used manufactured or mobile homes.

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

4 Section 1. That chapter 32-9 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any commercial motor carrier located in the state hauling a new trailer or a new or used
7 manufactured or mobile home with a manufacturer's statement of origin or certificate of title and
8 who has registered with the Department of Revenue as a transporter may use a transporter plate
9 upon the streets and highways for in-transit purposes. The fee for a transporter plate is fifty
10 dollars and the fee shall be deposited in the license plate special revenue fund. Any new trailer
11 with a transporter plate may be used to haul other new trailers. No transporter may use a
12 transporter plate for any other purpose. A violation of this section is a Class 1 misdemeanor.

1 **BILL HISTORY**

2 1/15/00 First read in Senate and referred to Transportation. S.J. 58

3 1/21/00 Scheduled for Committee hearing on this date.

4 1/25/00 Scheduled for Committee hearing on this date.

5 1/25/00 Transportation Do Pass Amended, Passed, AYES 7, NAYS 0. S.J. 184

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

926D0507

HOUSE APPROPRIATIONS COMMITTEE

ENGROSSED NO. **SB104** - 2/15/00

Introduced by: Senators Frederick, Albers, Benson, Bogue, Brosz, Brown (Arnold), Daugaard, Dennert, Drake, Dunn (Rebecca), Duxbury, Flowers, Hainje, Ham, Hutmacher, Kleven, Kloucek, Lange, Lawler, Moore, Olson, Reedy, Shoener, Symens, Valandra, and Vitter and Representatives Diedrich (Larry), Brown (Jarvis), Burg, Cerny, Chicoine, Crisp, Diedrich (Elmer), Duenwald, Engbrecht, Fischer-Clemens, Fitzgerald, Fryslie, Garnos, Hagen, Hanson, Hunt, Jaspers, Juhnke, Kazmerzak, Klaudt, Koehn, Koskan, Lintz, Lockner, Lucas, McCoy, McIntyre, McNenny, Michels, Monroe, Nachtigal, Pummel, Putnam, Sebert, Slaughter, Smidt, Sutton (Daniel), Sutton (Duane), Volesky, Waltman, Weber, Wetz, Wilson, Wudel, and Young

1 FOR AN ACT ENTITLED, An Act to appropriate money for the Northern Crops Institute.

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

3 Section 1. There is hereby appropriated from the general fund the sum of twenty-five
4 thousand dollars (\$25,000), or so much thereof as may be necessary, to the Department of
5 Agriculture for a grant to the Northern Crops Institute.

6 Section 2. The secretary of the Department of Agriculture shall approve vouchers and the
7 state auditor shall draw warrants to pay expenditures authorized by this Act.

8 Section 3. Any amounts appropriated in this Act not lawfully expended or obligated by
9 June 30, 2001, shall revert in accordance with § 4-8-21.

1 **BILL HISTORY**

2 1/19/00 First read in Senate and referred to Appropriations. S.J. 111

3 2/1/00 Scheduled for Committee hearing on this date.

4 2/1/00 Deferred by Chair.

5 2/8/00 Scheduled for Committee hearing on this date.

6 2/8/00 Appropriations Do Pass, Passed, AYES 9, NAYS 1. S.J. 346

7 2/9/00 Senate Do Pass, Passed, AYES 32, NAYS 3. S.J. 391

8 2/10/00 First read in House and referred to Appropriations. H.J. 563

9 2/13/00 Scheduled for Committee hearing on this date.

10 2/14/00 Scheduled for Committee hearing on this date.

11 2/14/00 Appropriations Do Pass Amended, Passed, AYES 9, NAYS 0. H.J. 627

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

291D0592

SENATE TRANSPORTATION COMMITTEE

ENGROSSED NO. **SB109** - 1/26/00

Introduced by: Senators Benson, Albers, Bogue, Brown (Arnold), Dunn (Jim), Frederick, Hainje, Staggers, and Vitter and Representatives Duenwald, Diedrich (Larry), Fitzgerald, Jaspers, Juhnke, McCoy, Peterson, Putnam, Wetz, and Wudel

1 FOR AN ACT ENTITLED, An Act to revise the time requirement for the purchase of
2 temporary permits associated with certain specialty license plates and to declare an
3 emergency.

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

5 Section 1. That § 32-5-140 be amended to read as follows:

6 32-5-140. Upon the sale or transfer of a vehicle bearing specialty license plates that display
7 an organization decal, the plates shall remain with the owner and upon approval by the
8 department may be transferred to another vehicle. Anyone receiving organization license plates
9 ~~shall~~ may at the time of obtaining the specialty plates purchase from the county treasurer a
10 temporary permit. The owner of the specialty plate shall purchase a permit before the sale of the
11 vehicle to an individual. The permit is valid for fifteen days and costs fifteen dollars. The permit
12 shall be vehicle specific and shall be affixed to the vehicle by the seller at the time of sale or
13 transfer of the vehicle. The new owner of the vehicle may use the permit in the interim of
14 registering the vehicle. The permit may not be used for any other purpose than stated. Misuse
15 ~~of the temporary permit or failure to purchase the temporary permit before the sale of the vehicle~~

1 is a Class 2 misdemeanor.

2 Section 2. That chapter 32-5 be amended by adding thereto a NEW SECTION to read as
3 follows:

4 If, before the effective date of this Act, an applicant requests a refund of the fifteen dollar
5 temporary permit fee, the department shall authorize the refund upon receipt of the request, the
6 temporary permit, and a copy of the registration.

7 Section 3. Whereas, this Act is necessary for the support of the state government and its
8 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full
9 force and effect on April 1, 2000.

1 **BILL HISTORY**

2 1/19/00 First read in Senate and referred to Transportation. S.J. 112

3 1/21/00 Scheduled for Committee hearing on this date.

4 1/25/00 Scheduled for Committee hearing on this date.

5 1/25/00 Transportation Do Pass Amended, Passed, AYES 7, NAYS 0. S.J. 184

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

385D0176

SENATE JUDICIARY COMMITTEE
ENGROSSED NO. **SB110** - 2/1/00

Introduced by: Senators Hutmacher and Flowers and Representatives Cerny and Nachtigal

1 FOR AN ACT ENTITLED, An Act to prohibit the placement of certain hazardous or injurious
2 devices on state lands and to provide penalties therefor.

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

4 Section 1. No person may, with the intent to cause bodily injury to another person, use or
5 place a hazardous or injurious device on any land owned or leased by the State of South Dakota,
6 including any highway, road, or right-of-way. A violation of this section is a Class 1
7 misdemeanor.

8 Section 2. For the purposes of this Act, a hazardous or injurious device is any device, which
9 when assembled or placed, is capable of causing bodily injury, or damage to property, by the
10 action of any person making contact with such device subsequent to the assembly or placement.
11 The term includes guns attached to trip wires or other triggering mechanisms, ammunition
12 attached to trip wires or other triggering mechanisms, or explosive devices attached to trip wires
13 or other triggering mechanisms, sharpened stakes, lines or wires, lines or wires with hooks
14 attached, nails, or other such devices placed so that the sharpened ends are positioned in an
15 upright manner, or tree spiking devices including spikes, nails, or other objects hammered,
16 driven, fastened, or otherwise placed into or on any timber, whether or not severed from the

- 1 stump. However, the term does not include puncture strips placed by law enforcement officers
- 2 in an immediate attempt to stop a fleeing vehicle.

1 **BILL HISTORY**

2 1/19/00 First read in Senate and referred to Judiciary. S.J. 113

3 1/21/00 Scheduled for Committee hearing on this date.

4 1/21/00 Judiciary Deferred to another day.

5 1/28/00 Scheduled for Committee hearing on this date.

6 1/28/00 Judiciary Do Pass Amended, Passed, AYES 7, NAYS 0. S.J. 251

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

671D0553

HOUSE COMMERCE COMMITTEE ENGROSSED NO. **SB136** - 2/16/00

Introduced by: Senators Moore, Albers, and Flowers and Representatives Apa, Davis, Koskan,
and Patterson

1 FOR AN ACT ENTITLED, An Act to prohibit certain activities regarding certain imported
2 cigarettes or tobacco products.

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

4 Section 1. That chapter 10-50 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 No dealer, licensed distributor, licensed wholesaler, or any other person in this state may
7 acquire, import, hold, own, possess, sell, or distribute or transport for sale or distribution:

8 (1) Any cigarettes or tobacco products intended for export or previously exported from
9 the United States;

10 (2) Any cigarettes or tobacco products, the package of which bears any statement, label,
11 stamp, sticker, or notice indicating that the manufacturer did not intend the cigarettes
12 or tobacco products to be sold, distributed, or used in the United States, including
13 labels stating, For Export Only, U.S. Tax-Exempt, For Use Outside U.S., or similar
14 wording; or

15 (3) Any cigarettes or tobacco products that the person knows or has reason to know the
16 manufacturer did not intend to be sold, distributed, or used in the United States.

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

2 Section 2. That chapter 10-50 be amended by adding thereto a NEW SECTION to read as
3 follows:

4 Any cigarettes or tobacco products found at any place in this state that have been imported
5 in violation of this Act are declared to be contraband goods and may be seized without a warrant
6 by the secretary, agents or employees of the secretary, or any law enforcement officer of this
7 state when directed to do so by the secretary. Notwithstanding the provisions of § 10-50-36,
8 cigarettes or tobacco products imported in violation of this Act shall be destroyed by the
9 secretary.

10 Section 3. That chapter 10-50 be amended by adding thereto a NEW SECTION to read as
11 follows:

12 In addition to any other remedy provided by law, any person may bring an action for
13 appropriate injunctive or other equitable relief for a violation of section 1 of this Act; actual
14 damages, if any, from the distributor, wholesaler, or other violator sustained by reason of the
15 violation; and, as determined by the court, interest on the damages from the date of the
16 complaint, taxable costs, and reasonable attorney's fees. If the trier of fact finds that the violation
17 is flagrant, it may increase recovery to an amount not in excess of three times the actual damages
18 sustained by reason of the violation.

1 **BILL HISTORY**

2 1/19/00 First read in Senate and referred to Commerce. S.J. 118

3 1/25/00 Scheduled for Committee hearing on this date.

4 1/25/00 Commerce Do Pass Amended, Passed, AYES 5, NAYS 1. S.J. 183

5 1/27/00 Senate Do Pass Amended, Passed, AYES 33, NAYS 1. S.J. 230

6 1/28/00 First read in House and referred to Commerce. H.J. 294

7 2/15/00 Scheduled for Committee hearing on this date.

8 2/15/00 Commerce Do Pass Amended, Passed, AYES 10, NAYS 0. H.J. 663

9 2/15/00 Commerce Place on Consent Calendar.

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

714D0462

HOUSE AGRICULTURE AND NATURAL RESOURCES COMMITTEE ENGROSSED NO. **SB138** - 2/16/00

Introduced by: Senators Bogue, Dennert, and Drake and Representatives Wetz, Duenwald, and McNenny

1 FOR AN ACT ENTITLED, An Act to prohibit the use of motor vehicles for hunting, fishing,
2 or trapping purposes on certain school and public lands.

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

4 Section 1. That chapter 41-9 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 No person may use a motor vehicle, as defined in subdivision 41-1-1(18), for purposes of
7 hunting, fishing, or trapping on any land under the control of the commissioner of school and
8 public lands on which public hunting, fishing, or trapping is authorized. No person may use a
9 motor vehicle, for purposes of hunting, fishing, or trapping to enter onto or to cross any land
10 under the control of the commissioner of school and public lands on which public hunting,
11 fishing, or trapping is authorized. Any motor vehicle that is used to transport any person to any
12 such lands for purposes of hunting, fishing, or trapping shall remain within a public right of way.
13 Nothing in this Act authorizes or prohibits hunting, fishing, or trapping in any area where those
14 activities are otherwise authorized or prohibited. The prohibitions contained in this section do
15 not restrict the use of motor vehicles on roads, trails, or parking areas designated and signed by
16 the Department of Game, Fish and Parks pursuant to a management agreement with the

1 commissioner of school and public lands. Nothing in this section prohibits using a motor vehicle
2 on land under the control of the commissioner of school and public lands for normal lease
3 activities by the lessee or for animal damage control activities. A violation of this section is a
4 Class 2 misdemeanor.

1 **BILL HISTORY**

2 1/19/00 First read in Senate and referred to Judiciary. S.J. 118

3 1/24/00 Scheduled for Committee hearing on this date.

4 1/24/00 Deferred by Chair.

5 1/26/00 Scheduled for Committee hearing on this date.

6 1/26/00 Judiciary Do Pass Amended, Passed, AYES 6, NAYS 1. S.J. 200

7 1/28/00 Motion to Amend, Passed.

8 1/28/00 Senate Do Pass Amended, Passed, AYES 35, NAYS 0. S.J. 243

9 1/31/00 First read in House and referred to committee assignment waived. H.J. 319

10 2/1/00 Referred to Agriculture and Natural Resources.

11 2/15/00 Scheduled for Committee hearing on this date.

12 2/15/00 Agriculture and Natural Resources Do Pass Amended, Passed, AYES 0, NAYS 0.

13 H.J. 664

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

400D0664

SENATE COMMERCE COMMITTEE ENGROSSED NO. **SB157** - 2/2/00

Introduced by: Senators Daugaard and Brosz and Representatives Koskan and Broderick

1 FOR AN ACT ENTITLED, An Act to clarify the reporting and collection of the
2 telecommunications access fee for the deaf, hearing impaired, and speech impaired.

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

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

5 10-59-1. The provisions of this chapter apply to any taxes or fees or persons subject to taxes
6 or fees imposed by chapters 10-39, 10-39A, 10-39B, 10-43, 10-45, 10-46, 10-46A, 10-46B,
7 10-47B, 10-52, 10-60, 32-3, 32-5, 32-5B, 32-6B, 32-9, 32-10, and 34A-13 and §§ 22-25-48,
8 49-31-51, 50-4-13 to 50-4-17, inclusive, and the provisions of chapter 10-45B.

9 Section 2. That chapter 49-31 be amended by adding thereto a NEW SECTION to read as
10 follows:

11 The secretary of revenue may promulgate rules, pursuant to chapter 1-26, to administer the
12 fee imposed pursuant to § 49-39-51. The rules may include:

- 13 (1) The filing of returns and payment of the fee;
- 14 (2) Determining the application of the fee;
- 15 (3) Record-keeping requirements; and
- 16 (4) Determining auditing methods.

1 **BILL HISTORY**

2 1/21/00 First read in Senate and referred to Commerce. S.J. 138

3 2/1/00 Scheduled for Committee hearing on this date.

4 2/1/00 Commerce Do Pass Amended, Passed, AYES 7, NAYS 0. S.J. 268

5 2/1/00 Commerce Place on Consent Calendar.

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

655D0715

SENATE ENGROSSED NO. **SB161** - 2/10/00

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

Introduced by: Senators Bogue and Everist and Representatives Hunt and Fischer-Clemens

1 FOR AN ACT ENTITLED, An Act to restrict the legal responsibility to provide financial
2 support for certain family members.

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

4 Section 1. That § 25-7-27 be amended to read as follows:

5 25-7-27. ~~Every~~ Any adult child, having the financial ability ~~to do so~~, shall provide
6 necessary food, clothing, shelter, or medical attendance for a parent who is unable to provide for
7 ~~himself; provided that oneself. However,~~ no claim ~~shall~~ may be made against such adult child
8 ~~until notice has been given such adult child~~ the adult child is given written notice that his the
9 child's parent is unable to provide for himself oneself, and such adult child shall have has refused
10 to provide for his the child's parent. Notice required by this section shall be given within ninety
11 days after the necessary food, clothing, shelter, or medical attendance, claimed in the notice, was
12 first provided for the parent. However, in the case of fraud or misrepresentation, notice shall be
13 provided within ninety days after such fraud or misrepresentation is known or should have been
14 known. If the parent or someone acting on behalf of the parent makes application for assistance
15 pursuant to chapter 28-13, the county shall give the written notice required herein within ninety
16 days after it receives the application or notice required under § 28-13-1, 28-13-32.3, 28-13-32.4,

1 or 28-13-34.1, whichever is sooner.

1 **BILL HISTORY**

2 1/21/00 First read in Senate and referred to Judiciary. S.J. 139

3 1/24/00 Scheduled for Committee hearing on this date.

4 1/24/00 Deferred by Chair.

5 1/26/00 Scheduled for Committee hearing on this date.

6 1/26/00 Judiciary Deferred to another day.

7 1/28/00 Scheduled for Committee hearing on this date.

8 1/31/00 Scheduled for Committee hearing on this date.

9 1/31/00 Deferred to 36th legislative day, AYES 5, NAYS 1. S.J. 262

10 2/7/00 Judiciary Hog Housed.

11 2/7/00 Scheduled for Committee hearing on this date.

12 2/7/00 Judiciary Reconsidered.

13 2/7/00 Judiciary Do Pass Amended, Failed, AYES 3, NAYS 3.

14 2/7/00 Judiciary Do Pass Amended, Passed, AYES 4, NAYS 3. S.J. 338

15 2/9/00 Motion to Amend, Passed. S.J. 393

16 2/9/00 Senate Do Pass Amended, Passed, AYES 32, NAYS 1. S.J. 393

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

660D0178

HOUSE EDUCATION COMMITTEE ENGROSSED NO. **SB164** - 2/16/00

Introduced by: Senators Reedy, Brosz, and Kloucek and Representatives Lucas, Chicoine, Fischer-Clemens, Kooistra, McCoy, McIntyre, Patterson, and Wilson

1 FOR AN ACT ENTITLED, An Act to establish qualifications for substitute teachers.

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

3 Section 1. That chapter 13-43 be amended by adding thereto a NEW SECTION to read as
4 follows:

5 Any person who is employed as a substitute teacher in any school in which teachers are
6 required to be certified shall be at least a high school graduate, shall be at least nineteen years
7 of age, and shall complete an orientation program that includes, but is not limited to the
8 following areas:

- 9 (1) Classroom management;
- 10 (2) Student safety and health; and
- 11 (3) School district policies and procedures.

12 The school administration is responsible for supervision of the substitute teacher and for
13 providing any testing or training necessary to meet the requirements of subdivisions (1) to (3),
14 inclusive, of this section. No person may be employed as a substitute teacher at such a school
15 unless the person has signed a statement that the person has not during the previous five years
16 been convicted of any crime involving moral turpitude, including traffic in narcotics.

1 **BILL HISTORY**

2 1/21/00 First read in Senate and referred to Education. S.J. 139

3 1/27/00 Scheduled for Committee hearing on this date.

4 1/27/00 Education Do Pass Amended, Passed, AYES 7, NAYS 0. S.J. 218

5 1/31/00 Senate Do Pass Amended, Passed, AYES 20, NAYS 11. S.J. 260

6 2/1/00 First read in House and referred to Education. H.J. 340

7 2/10/00 Scheduled for Committee hearing on this date.

8 2/10/00 Deferred by Chair.

9 2/15/00 Scheduled for Committee hearing on this date.

10 2/15/00 Education Do Pass Amended, Passed, AYES 8, NAYS 5. H.J. 664

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

400D0787

SENATE STATE AFFAIRS COMMITTEE

ENGROSSED NO. **SB197** - 2/3/00

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

1 FOR AN ACT ENTITLED, An Act to create a statewide underground tank cleanup program.

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

3 Section 1. That chapter 34A-13 be amended by adding thereto a NEW SECTION to read
4 as follows:

5 There is hereby created within the petroleum release compensation fund, a new program to
6 be known as the abandoned tank removal program. Under this program, the director may
7 provide payments for tank pulling and corrective action at abandoned sites where the owner or
8 the person having legal custody of an abandoned site has voluntarily requested such action in the
9 manner and time established by the secretaries of the departments of transportation and
10 environment and natural resources and if the following criteria are met:

11 (1) The owner or person having legal custody of the abandoned site has submitted to the
12 director a written request to have the tank removed. The request shall be made in the
13 manner established by the secretary of the Department of Transportation to include
14 documentation of eligibility for the site to participate in the abandoned tank removal
15 program, proof of ownership, and legal description;

16 (2) The owner or person having legal custody of the abandoned site has, in writing,

1 waived all claims against the state, its officers, agents, and employees for damages
2 resulting directly or indirectly from the tank pulling or corrective action;

3 (3) If the abandoned site is on private property, all property taxes are current; and

4 (4) The owner or person having legal custody of the abandoned site has agreed to transfer
5 ownership of the removed tank and its contents to the state.

6 No tank is eligible for coverage under this program if the tank is located at the site of a
7 commercially operational motor fuel vendor in service on or after April 1, 1988.

8 Section 2. That chapter 34A-13 be amended by adding thereto a NEW SECTION to read
9 as follows:

10 Payments made from the director for tank pulling and corrective action under the abandoned
11 tank removal program may include:

12 (1) Tank pulling, as defined in this chapter, including the disposal of tank contents and
13 specifically excluding the replacement of surface above the backfill area; and

14 (2) Removal of abandoned waste oil tanks and corrective action of a waste oil release
15 located on an abandoned site.

16 Section 3. That chapter 34A-13 be amended by adding thereto a NEW SECTION to read
17 as follows:

18 The owner or person having legal custody of the abandoned site shall, as a condition of
19 approval for participation in the abandoned tank removal program, execute a legally binding five-
20 year lien running with the affected property providing that any compensation received by the
21 owner, the owner's heirs, successors in interest, or assigns, for transfer of any interest in or part
22 of the site, shall be paid to the secretary of the Department of Transportation and deposited in
23 the fund. No lien may be for an amount more than ten thousand dollars or the cost of tank pulling
24 and corrective action identified in the lien by the director, whichever is less. Any lien provided
25 by this section is valid for five years from the date of recordation and the priority of the lien is

1 established as of the date it is recorded in the office of the register of deeds of the county in
2 which the site is located.

3 Section 4. That chapter 34A-13 be amended by adding thereto a NEW SECTION to read
4 as follows:

5 The Department of Environment and Natural Resources shall be responsible for the tank
6 removal and corrective actions subject to this Act. The department may contract directly with
7 consultants, contractors, other service providers, state agencies, subdivisions of government,
8 counties, cities, townships, and tribes to carry out the provisions of this Act. After receiving
9 itemized documentation of all actual costs from the department, the director of the petroleum
10 release compensation fund shall make payment within thirty days of receipt. All tank removals,
11 pollution assessments, and corrective actions taken under this Act shall comply with chapters
12 34A-2 and 34A-12 and the rules promulgated thereunder.

13 Section 5. That chapter 34A-13 be amended by adding thereto a NEW SECTION to read
14 as follows:

15 The secretaries of the departments of transportation and environment and natural resources
16 may promulgate, pursuant to chapter 1-26, rules regarding practices and procedures necessary
17 to carry out the provisions of the abandoned tank removal program including the form and
18 procedure for application for qualifying for tank pulling and corrective action.

19 Section 6. That chapter 34A-13 be amended by adding thereto a NEW SECTION to read
20 as follows:

21 Except at sites determined to be high risk by the secretary of the Department of Environment
22 and Natural Resources using risk-based corrective action criteria, the director shall suspend
23 payments for tank pulling and corrective action at abandoned sites eligible for the abandoned
24 tank removal program if the balance of the fund is five million dollars or below. The director
25 shall resume payments for tank pulling and corrective action at abandoned sites eligible for the

1 abandoned tank removal program if the fund balance exceeds five million dollars. Except as
2 provided in this Act, all other limits of coverage, conditions, and criteria in this chapter apply to
3 tank pulling and corrective action taken at abandoned sites.

1 **BILL HISTORY**

2 1/24/00 First read in Senate and referred to State Affairs. S.J. 169

3 1/31/00 Scheduled for Committee hearing on this date.

4 2/2/00 Scheduled for Committee hearing on this date.

5 2/2/00 State Affairs Do Pass Amended, Passed, AYES 9, NAYS 0. S.J. 279

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

329D0754

SENATE COMMERCE COMMITTEE ENGROSSED NO. **SB206** - 2/9/00

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

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding liability for the bank
2 franchise tax.

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

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

5 10-43-4. The liability for the tax imposed by §§ 10-43-2 and 10-43-2.1 shall arise upon the
6 first day of each tax year and shall be based upon the net income assignable to this state at the
7 rate of six percent on net income of ~~five~~ four hundred million dollars or less; at the rate of five
8 percent on net income exceeding ~~five~~ four hundred million dollars but equal to or less than ~~five~~
9 four hundred twenty-five million dollars; at the rate of four percent on the net income exceeding
10 ~~five~~ four hundred twenty-five million dollars but equal to or less than ~~five~~ four hundred fifty
11 million dollars; at the rate of three percent on the net income exceeding ~~five~~ four hundred fifty
12 million dollars but equal to or less than ~~five~~ four hundred seventy-five million dollars; at the rate
13 of two percent on the net income exceeding ~~five~~ four hundred seventy-five million dollars but
14 equal to or less than ~~six~~ five hundred million dollars; ~~and~~ at the rate of one percent on the net
15 income exceeding ~~six~~ five hundred million dollars but equal to or less than six hundred million
16 dollars; at the rate of one-half of one percent on the net income exceeding six hundred million

1 dollars but equal to or less than one billion two hundred million dollars; and at the rate of one-
2 quarter of one percent on the net income exceeding one billion two hundred million dollars. The
3 tax payable under this section may be no less than two hundred dollars for each authorized
4 location at which the financial institution subject to taxation under § 10-43-2 regularly conducts
5 business.

6 Section 2. That subdivision (10) of § 10-43-1 be amended to read as follows:

7 (10) "Person," includes individuals, firms, associations, corporations, estates, fiduciaries,
8 and all entities from which income tax may be due. In no event shall a pass-through
9 entity owned in whole or in part by a financial institution subject to tax under this
10 chapter, and formed primarily to facilitate the securitization of assets, be treated as a
11 person for the purpose of subdivision 10-43-1(4);

12 Section 3. That § 10-43-36 be amended to read as follows:

13 10-43-36. Any related corporation required to report under this chapter and owned or
14 controlled either directly or indirectly by another corporation may elect, or may be required by
15 the secretary of revenue, to make a consolidated report with related corporations that are
16 required to report under this chapter showing the combined net income, such assets of the
17 corporation as are required for the purpose of this chapter, and such other information as the
18 secretary of revenue may require by rule promulgated pursuant to chapter 1-26.

1 **BILL HISTORY**

2 1/25/00 First read in Senate and referred to Commerce. S.J. 186

3 2/1/00 Scheduled for Committee hearing on this date.

4 2/1/00 Deferred by Chair.

5 2/5/00 Scheduled for Committee hearing on this date.

6 2/8/00 Commerce Do Pass Amended, Passed, AYES 5, NAYS 0. S.J. 356

7 2/8/00 Scheduled for Committee hearing on this date.