

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

400E0225

## SENATE BILL NO. 59

Introduced by: The Committee on State Affairs at the request of the Department of  
Education and Cultural Affairs

1 FOR AN ACT ENTITLED, An Act to revise procedures for the preservation of historic  
2 property.

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

4 Section 1. That § 1-19A-2 be amended to read as follows:

5 1-19A-2. Terms used in this chapter mean:

- 6 (1) "Board," the State Historical Society Board of trustees established by § 1-18-12.2;
- 7 (2) "Historic preservation," the research, protection, restoration, and rehabilitation of  
8 districts, sites, buildings, structures, and objects significant in the history, architecture,  
9 archaeology, paleontology, or culture of the state;
- 10 (3) "Historic property," any building, structure, object, district, area, or site that is  
11 significant in the history, architecture, archaeology, paleontology, or culture of the  
12 state, its communities or the nation;
- 13 (4) "Office" or "Office of History," the Office of History of the Department of Education  
14 and Cultural Affairs;
- 15 (5) "Project", "activity," or "program," any grant or loan, zoning, demolition permit,

1 moving permit, building permit over ninety-nine thousand nine hundred ninety-nine  
2 dollars, or property leaving public ownership;

3 (6) "Rehabilitation," returning property to a state of utility, through expansion, addition,  
4 repair, or alteration, which makes possible an efficient contemporary use while  
5 retaining those portions of the property, which qualify such property for placement  
6 on the state register of historic places;

7 ~~(6)~~(7) "Restoration," the repair or replacement of historically significant features which  
8 qualify a structure or object for recognition by the state register of historic places.

9 Section 2. That § 1-19A-11.1 be amended to read as follows:

10 1-19A-11.1. The state or any political subdivision of the state, or any instrumentality thereof,  
11 may not undertake any project, activity, or program which will encroach upon, change the  
12 character or use of, damage, or destroy any historic property designated as a national historic  
13 landmark or included in the national register of historic places or the state register of historic  
14 places until the Office of History has been given notice and an opportunity to investigate and  
15 comment on the proposed project and project changes. The office may solicit the advice and  
16 recommendations of the board with respect to such project, may authorize a local historic  
17 preservation commission to investigate and comment on all or a portion of a project, activity, or  
18 program, subject to this section, and may direct that a public hearing be held thereon. If the  
19 property is designated as or contributing to a national historic landmark, the state or any political  
20 subdivision of the state, or instrumentality thereof, shall, to the maximum extent possible,  
21 undertake such planning and actions as may be necessary to minimize harm to such landmark and  
22 obtain the concurrence of the Office of History before proceeding with any project, activity, or  
23 program. If the office determines that the proposed project will encroach upon, change the  
24 character or use of, damage, or destroy any historic property ~~which~~ that is included in the

1 national register of historic places or the state register of historic places or the environs of such  
2 property, the project may not proceed until:

3 (1) The Governor, in the case of a project of the state or an instrumentality thereof, or the  
4 governing body of the political subdivision has made a written ~~determination~~  
5 statement of findings, based upon the consideration of all relevant factors, that there  
6 is no feasible and prudent alternative to the proposal and that the program includes  
7 all possible planning to minimize harm to the historic property, resulting from such  
8 use; and

9 (2) Ten day's notice of the ~~determination~~ statement of findings has been given, by certified  
10 mail, to the Office of History. A complete record of factors considered shall be  
11 included with ~~such~~ the notice.

12 Any person aggrieved by the determination of the Governor or governing body may appeal  
13 the decision pursuant to the provisions of chapter 1-26.

14 The failure of the office to initiate an investigation of any proposed project within thirty days  
15 from the date of receipt of notice thereof is approval of the project.

16 Pursuant to chapter 1-26, the state historical society board of trustees shall promulgate rules  
17 establishing standards for archaeology and historic preservation, including standards for  
18 preserving, rehabilitating, restoring, and reconstructing historic properties, and the procedures  
19 to implement this section.

20 Any project subject to a federal historic preservation review need not be reviewed pursuant  
21 to this section.