



# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

400E0333      **HOUSE APPROPRIATIONS COMMITTEE ENGROSSED**  
**NO. HB 1015 - 02/13/2001**

Introduced by: The Committee on Appropriations at the request of the Board of Regents

1    FOR AN ACT ENTITLED, An Act to authorize the Board of Regents to provide for the  
2        renovation of the entrance, parking, and garage facilities located at the South Dakota School  
3        for the Deaf in Sioux Falls, Minnehaha County, and to make an appropriation therefor.

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

5        Section 1. The Board of Regents may provide for the renovation of the entrance, parking,  
6    and garage facilities located at the South Dakota School for the Deaf in Sioux Falls, Minnehaha  
7    County, including the construction of a new entryway to the campus, the sale, exchange, or  
8    demolition of existing garages and construction of suitable replacement structures, and the  
9    resurfacing and expansion of off-street parking facilities, to which ends the Board of Regents  
10   may provide for asbestos abatement, architectural and engineering services, site preparation, the  
11   construction of sidewalks and driveways, landscaping the grounds of that facility, and such other  
12   services as may be required to accomplish the purposes of this Act, all for the estimated cost of  
13   three hundred fifty thousand dollars (\$350,000), which amount is appropriated from any  
14   proceeds realized from any sale of structures pursuant to this Act, from other funds appropriated  
15   to the South Dakota School for the Deaf.

1       Section 2. The Board of Regents may accept, transfer, and expend any funds obtained for  
2 these purposes from federal sources, gifts, contributions, or any other sources, all of which shall  
3 be deemed appropriated to the purposes of this Act.

4       Section 3. The design and construction of the renovation of the entrance, parking, and garage  
5 facilities shall be under the general charge and supervision of the Bureau of Administration as  
6 provided in chapter 5-14. The commissioner of the Bureau of Administration and the executive  
7 director of the Board of Regents shall approve vouchers and the state auditor shall draw  
8 warrants to pay expenditures authorized by this Act.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

400E0240      **HOUSE APPROPRIATIONS COMMITTEE ENGROSSED**  
**NO. HB 1068 - 02/13/2001**

Introduced by: The Committee on Appropriations at the request of the Board of Regents

1    FOR AN ACT ENTITLED, An Act to authorize the South Dakota Building Authority and the  
2        Board of Regents to implement the long-term capital project request of the Board of  
3        Regents, providing for the construction, remodeling, or renovation of various structures on  
4        the campuses of the state's universities and to make appropriations therefor.

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

6        Section 1. It is in the public interest that the South Dakota Building Authority contract for  
7        the construction, completion, furnishing, equipping, and maintaining of, including heating, air  
8        conditioning, plumbing, water, sewer, electric facilities, architectural and engineering services,  
9        asbestos abatement, removal of existing roofing and structures, and such other services as may  
10       be required to accomplish the projects enumerated in section 3 of this Act, all at the estimated  
11       cost of seventy-one million seven hundred ninety-one thousand dollars. The South Dakota  
12       Building Authority may finance up to thirty-eight million three hundred forty-one thousand  
13       dollars of the construction costs through the issuance of revenue bonds, in accordance with this  
14       Act and chapter 5-12.

15       Section 2. In addition to those projects approved in section 1 of this Act, the Board of

1 Regents may contract for the construction, completion, furnishing, equipping, and maintaining  
2 of, including heating, air conditioning, plumbing, water, sewer, electric facilities, architectural  
3 and engineering services, asbestos abatement, removal of existing roofing and structures, and  
4 such other services as may be required to accomplish the projects enumerated in section 4 of this  
5 Act, all at the estimated cost of thirty million two hundred seventy thousand dollars.

6 Section 3. The projects authorized in section 1 of this Act, to be financed through the  
7 issuance of revenue bonds by the South Dakota Building Authority, include the following:

- 8 (1) The Cook classroom renovation or replacement space at Black Hills State University  
9 in Spearfish, South Dakota, for an estimated cost of eight million two hundred fifty  
10 thousand dollars provided that, in no event, may the building authority issue bonds for  
11 more than two million five hundred thousand dollars, for the Cook classroom  
12 renovation or replacement space;
- 13 (2) The technology classroom building renovation or replacement space at Dakota State  
14 University in Madison, South Dakota, for an estimated cost of two million five  
15 hundred thousand dollars;
- 16 (3) The library remodeling at the South Dakota School of Mines and Technology in  
17 Rapid City, South Dakota, for an estimated cost of eight hundred eighty-one thousand  
18 dollars;
- 19 (4) The primary electrical distribution system upgrade at the South Dakota School of  
20 Mines and Technology in Rapid City, South Dakota, for an estimated cost of seven  
21 hundred eighty-four thousand dollars;
- 22 (5) The mechanical building air conditioning project at the South Dakota School of Mines  
23 and Technology in Rapid City, South Dakota, for an estimated cost of three hundred  
24 seventy-six thousand dollars;

- 1       (6)    The Seymour Hall – Technology Center remodeling or replacement space at Northern  
2            State University in Aberdeen, South Dakota, for an estimated cost of three million  
3            five hundred thousand dollars;
- 4       (7)    The Mewaldt–Jensen Classroom Building renovation at Northern State University in  
5            Aberdeen, South Dakota, for an estimated cost of three million five hundred thousand  
6            dollars;
- 7       (8)    The Lee Medicine and Science Hall renovation or replacement space at the University  
8            of South Dakota in Vermillion, South Dakota, for an estimated cost of thirty-two  
9            million dollars of which no more than twelve million five hundred thousand dollars  
10           may be financed through the issuance of revenue bonds; and
- 11      (9)    The Shepard Hall renovation at the South Dakota State University in Brookings,  
12            South Dakota, for an estimated cost of twenty million dollars of which no more than  
13            eleven million eight hundred thousand dollars may be financed through the issuance  
14            of revenue bonds;

15      Section 4. The projects authorized in section 2 of this Act include the following:

- 16      (1)    The Solberg Hall renovation at the South Dakota State University in Brookings,  
17            South Dakota, for an estimated cost of seven million five hundred seventy thousand  
18            dollars which may be undertaken as provided in section 5 of this Act;
- 19      (2)    The new business school at the University of South Dakota in Vermillion, South  
20            Dakota, for an estimated cost of twelve million eight hundred thousand dollars which  
21            may be funded from federal sources and private donations;
- 22      (3)    The Old Armory renovation at the University of South Dakota in Vermillion, South  
23            Dakota, for an estimated cost of two million two hundred thousand dollars which may  
24            be funded from federal sources and private donations;

1       (4)    The Al Neuharth Media Center renovation at the University of South Dakota in  
2            Vermillion, South Dakota, for an estimated cost of four million two hundred thousand  
3            dollars which may be funded from federal sources and private donations; and

4       (5)    The Slagle Auditorium renovation at the University of South Dakota in Vermillion,  
5            South Dakota, for an estimated cost of three million five hundred thousand dollars  
6            which may be funded from federal sources and private donations.

7       Section 5. The Board of Regents may lease Solberg Hall, and such portions of its  
8       surrounding grounds as may be needed to conduct renovation activities, to the South Dakota  
9       State University Foundation to permit the foundation to renovate the structure and to donate all  
10       improvements to the State of South Dakota for the use and benefit of South Dakota State  
11       University. The Board of Regents may accept such donation if all improvements are designed  
12       and specified in accordance with the requirements stated in §§ 5-14-11 to 5-14-13, inclusive; if  
13       all plans, specifications, and construction documents are delivered to the Board of Regents in the  
14       formats that the State Engineer requires for the keeping of such records; and if the foundation  
15       secures the approval of a building committee appointed by the Board of Regents for the project  
16       as provided in § 5-4-13 for the initial designs, plans, and specifications, and for any subsequent  
17       modifications of the same that may affect the use, operating costs or long-term maintenance of  
18       the renovated facility.

19       Section 6. There is hereby appropriated from the higher education facilities fund established  
20       in § 13-51-2 the sum of five million seven hundred fifty thousand dollars for the Cook classroom  
21       renovation or replacement space.

22       Section 7. The authorizations granted under section 1 of this Act, and all necessary  
23       appropriations required to finance and to complete such projects, remain effective through  
24       June 30, 2009. However, no bonds may be issued under the authority of this Act if such issuance

1 would violate the restriction established in § 13-51-2.

2 Section 8. The authorizations granted under section 2 of this Act, and all necessary  
3 appropriations required to finance and to complete such projects, remain effective through  
4 June 30, 2013.

5 Section 9. All cost estimates contained in this Act have been stated in terms of 2001 values.  
6 The Board of Regents may adjust such cost estimates to reflect inflation as measured by the  
7 Building Cost Index reported by the Engineering News Record. The limitations on the amount  
8 of bonded indebtedness stated in section 3 of this Act are not subject to such adjustment.

9 Section 10. No indebtedness, bond, or obligation incurred or created under the authority of  
10 this Act may be or may become a lien, charge, or liability against the State of South Dakota, nor  
11 against the property or funds of the State of South Dakota within the meaning of the  
12 Constitution or statutes of the state.

13 Section 11. The Building Authority and the Board of Regents may accept, transfer, and  
14 expend any funds obtained for these purposes from federal sources, gifts, contributions, or any  
15 other source, all of which shall be deemed appropriated to the project authorized by this Act.

16 Section 12. The administration of the design and construction of the projects authorized in  
17 sections 3 and 4 of this Act shall be under the general charge and supervision of the Bureau of  
18 Administration as provided in chapter 5-14, except as otherwise provided in section 5 of this Act.  
19 The executive director of the Board of Regents and the executive secretary of the Building  
20 Authority, or their designees, shall approve vouchers and the state auditor shall draw warrants  
21 to pay expenditures authorized by section 3 of this Act. The executive director of the Board of  
22 Regents, or a designee, shall approve vouchers and the state auditor shall draw warrants to pay  
23 expenditures authorized by section 4 of this Act, except as otherwise provided in section 5 of this  
24 Act.

1           Section 13. The Board of Regents may make and enter into a lease agreement with the  
2 Building Authority and make rental payments under the terms thereof, pursuant to chapter 5-12,  
3 from the higher education facilities fund for the purposes of this Act.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

763E0583

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1155** - 02/13/2001

Introduced by: Representatives Adelstein and Van Etten and Senators Daugaard, Brown  
(Arnold), and McCracken

1 FOR AN ACT ENTITLED, An Act to restrict smoking in public buildings and certain places of  
2 business.

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

4 Section 1. That § 22-36-2 be amended to read as follows:

5 22-36-2. No person may smoke tobacco or carry any lighted tobacco product in the  
6 following places:

- 7 (1) Any hospital or medical or dental clinic;
- 8 (2) Any nursing facility;
- 9 (3) Any public library, museum, indoor theater, or concert hall;
- 10 (4) Any elementary or secondary school building;
- 11 (5) Any public conveyance;
- 12 (6) Any jury room;
- 13 (7) Any elevator;
- 14 (8) Any registered or unregistered day care program, day care center, day care

1 cooperative, or family day care home governed by chapter 26-6 during the time in  
2 which children who are not family members of the day care provider are receiving  
3 care;

4 (9) Any enclosed indoor area used by the general public or serving as a place of work.

5 This section does not prohibit the smoking of tobacco or tobacco products in the places  
6 named in this section, if the smoking is confined to ~~areas~~ an enclosed room designated as a  
7 smoking ~~areas~~ area.

8 A violation of this section is a petty offense.

9 Section 2. This Act does not apply to the following:

10 (1) Any place owned and operated by a social, fraternal, or religious organization when  
11 used by the membership of the organization, its guests or families;

12 (2) Any place that is rented or leased for private functions from which the public is  
13 excluded and for which arrangements are under the control of the sponsor of the  
14 function; or

15 (3) Any place that is a business and that derives more than fifty percent of its annual gross  
16 revenues from gaming or the sale of alcohol or a combination thereof.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

649E0598

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1159** - 02/13/2001

Introduced by: Representatives Wick, Duenwald, Fryslie, Hunhoff, Jaspers, Juhnke, Koistinen, Konold, McCaulley, Napoli, Pederson (Gordon), Peterson (Bill), Slaughter, Smidt, and Van Gerpen and Senators Greenfield, Bogue, Diedrich (Larry), Drake, and Vitter

1 FOR AN ACT ENTITLED, An Act to require an individual's written authorization before  
2 money is contributed to an association for a political purpose.

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

4 Section 1. That § 12-25-2 be amended to read as follows:

5 12-25-2. No candidate, candidate's committee, political action committee or political party  
6 committee may receive any contribution except from an individual, political action committee  
7 or a political party. No corporation may contribute or attempt to contribute any valuable  
8 consideration to any candidate, committee or political party except a ballot question committee.

9 Associations may contribute any valuable consideration out of funds contributed for the  
10 purpose of making political contributions but may not make contributions out of dues or treasury  
11 funds. An individual contributing funds to an association for the purpose of making a political  
12 contribution must specifically authorize the use of the funds for that purpose. The authorization  
13 shall be made prior to or concurrent with the contribution, voluntary, separate, written, signed

1 and shall be on an authorization form prescribed by the state board of elections. The  
2 authorization shall be renewed at least annually. Political contributions from an individual to an  
3 association shall be remitted separately from any contribution for dues, fees, or other payment  
4 to the association.

5 A violation of this section is a Class 2 misdemeanor.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

552E0758

HOUSE AGRICULTURE AND NATURAL RESOURCES

COMMITTEE ENGROSSED NO. **HB 1250** -  
02/13/2001

Introduced by: Representatives Duenwald, Bradford, Fryslie, Hanson (Gary), Hargens, Holbeck, Jaspers, Jensen, Lintz, Pitts, Rhoden, Sigdestad, and Van Gerpen and Senators Dennert, Diedrich (Elmer), Greenfield, Madden, Putnam, and Symens

1 FOR AN ACT ENTITLED, An Act to revise certain distance restrictions related to hunting from  
2 public rights-of-way near certain farmsteads.

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

4 Section 1. That § 41-9-1.1 be amended to read as follows:

5 41-9-1.1. Except for controlled access facilities as defined in § 31-8-1, interstate highways,  
6 unimproved section lines not commonly used as public rights-of-way, and highways within parks  
7 or recreation areas or within or adjoining public shooting areas or game refuges posted for  
8 restriction of an applicable use as hereinafter set forth by the Department of Game, Fish and  
9 Parks, § 41-9-1 does not apply to fishing, trapping, or hunting on highways or other public  
10 rights-of-way within this state that meet the requirements of § 41-9-1.3. No person, except the  
11 adjoining landowner or any person receiving written permission from the adjoining landowner,  
12 may use such highways or rights-of-way for the purposes of hunting defined in this title within  
13 six hundred sixty feet of an occupied dwelling, an occupied farmstead, a church, schoolhouse,

1 or livestock. No person, except the adjoining landowner or any person receiving written  
2 permission from the adjoining landowner, may use such highways or rights-of-way for the  
3 purpose of trapping within six hundred sixty feet of an occupied dwelling, an occupied  
4 farmstead, a church, or schoolhouse. A violation of this section is a Class 2 misdemeanor. If any  
5 person is convicted of knowingly discharging a firearm within six hundred sixty feet of any  
6 occupied dwelling, occupied farmstead, church, or schoolhouse for which such distance has been  
7 clearly and accurately marked and posted, the court shall, in addition to any other penalty,  
8 revoke the person's hunting privileges for a period of one year from the date of conviction. For  
9 purposes of this section, the term, occupied farmstead, means all buildings and structures located  
10 within one hundred yards of a dwelling on a farm or ranch if the farm or ranch is the permanent  
11 residence of an owner or lessee.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

707E0770

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1262** - 02/13/2001

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

Introduced by: Representative Lange

1 FOR AN ACT ENTITLED, An Act to allow for reasonable attorney's fees in stockholder  
2 litigation.

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

4 Section 1. That § 47-7-34 be amended to read as follows:

5 47-7-34. The circuit court shall have full power to liquidate the assets and business of a  
6 corporation and grant or deny reasonable attorney's fees, whether or not the corporation is  
7 liquidated, in an action by a shareholder when it is established:

8 (1) That the directors are deadlocked in the management of the corporate affairs and the  
9 shareholders are unable to break the deadlock, and that irreparable injury to the  
10 corporation is being suffered or is threatened by reason thereof; or

11 (2) That the acts of the directors or those in control of the corporation are illegal,  
12 oppressive, or fraudulent; or

13 (3) That the shareholders are deadlocked in voting power, and have failed, for a period  
14 which included at least two consecutive annual meeting dates, to elect successors to

- 1 directors whose terms have expired or would have expired upon the election of their
- 2 successors; or
- 3 (4) That the corporate assets are being misapplied or wasted.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

547E0776

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB 1282** - 02/13/2001

Introduced by: Representatives Garnos, Burg, Duenwald, Juhnke, and Monroe and  
Senators de Hueck, Diedrich (Elmer), and Duxbury

1 FOR AN ACT ENTITLED, An Act to revise the conditions under which certain contracts with  
2 a local officer are permitted.

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

4 Section 1. That § 6-1-2 be amended to read as follows:

5 6-1-2. The provisions of § 6-1-1 are not applicable if the contract is made pursuant to any  
6 one of the conditions set forth in the following subdivisions, without fraud or deceit; ~~but,~~  
7 However, the contract is voidable if the provisions of the applicable subdivision were not fully  
8 satisfied or present at the time the contract was entered into:

9 (1) Any contract involving ~~one~~ five thousand dollars or less, regardless of whether other  
10 sources of supply or services are available within the county, municipality, township,  
11 or school district, provided that the consideration therefor is reasonable and just;

12 (2) Any contract involving more than ~~one~~ five thousand dollars but less than the amount  
13 for which competitive bidding is required, ~~and if~~ and if there is no other source of supply or  
14 services available within the county, municipality, township, or school district,

1 provided that the consideration therefor is reasonable and just and further provided  
2 that the accumulated total of such contracts paid during any given fiscal year do not  
3 exceed the amount specified in § 5-18-3;

4 (3) Any contract with any firm, association, corporation, or cooperative association for  
5 which competitive bidding is not required and where other sources of supply and  
6 services are available within the county, municipality, township or school district, ~~and~~  
7 if the consideration therefor is reasonable and just, unless the majority of the  
8 governing body are members or stockholders who collectively have controlling  
9 interest, or any one of them is an officer or manager of any such firm, association,  
10 corporation, or cooperative association, then any such contract is null and void;

11 (4) Any contract with any firm, association, corporation, or cooperative association for  
12 which competitive bidding procedures are followed pursuant to chapter 5-18, and  
13 where more than one such competitive bid is submitted;

14 (5) Any contract for professional services with any individual, firm, association,  
15 corporation, or cooperative, if the individual or any member of the firm, association,  
16 corporation, or cooperative is an elected or appointed officer of a county,  
17 municipality, township, or school district, whether or not other sources of such  
18 services are available within the county, municipality, township, or school district,  
19 provided the consideration therefor is reasonable and just;

20 (6) Any contract for commodities, materials, supplies, or equipment found in the state  
21 price list established pursuant to § 5-23-8.1, at the price there established or below;  
22 ~~and~~

23 (7) Any contract or agreement between a governmental entity specified in § 6-1-1 and a  
24 public postsecondary educational institution when an employee of the Board of

1 Regents serves as an elected or appointed officer for the governmental entity,  
2 provided that the employee does not receive direct compensation or payment as a  
3 result of the contract or agreement; and

4 (8) Any contract involving more than five thousand dollars if there is no other source of  
5 supply or services available within the county, municipality, township, or school  
6 district, provided that the consideration therefor is reasonable and just and further  
7 provided that the provider of the supply or services is subject to the jurisdiction of the  
8 Public Utilities Commission or other applicable state regulatory agency.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

580E0670

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB 1287** - 02/13/2001

Introduced by: Representatives Brown (Richard), Bartling, Brown (Jarvis), Duniphan, Garnos, Gillespie, Glenski, Heineman, Hennies (Thomas), Lange, Madsen, Murschel, Nachtigal, Napoli, Peterson (Bill), Pummel, and Sebert and Senators Bogue, de Hueck, Koetzle, McCracken, Munson, Olson (Ed), Reedy, and Vitter

1 FOR AN ACT ENTITLED, An Act to revise and repeal certain restrictions on the issuance of  
2 liquor licenses.

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

4 Section 1. That § 35-4-2 be amended to read as follows:

5 35-4-2. Classes of licenses, with the fee of each class, follow:

6 (1) Distillers ---- four thousand dollars. However, no license fee is required for  
7 manufacturers of alcohol for use in industry as a nonbeverage. If such manufacturer  
8 of industrial alcohol shall at any time manufacture, produce, distill, sell, barter, or  
9 dispose of alcohol for any use other than an industrial use, the license fee required by  
10 this section shall be allocated to and payable for the portion of the year the  
11 manufacturer devoted to such other use for each calendar month or fraction thereof  
12 while so engaged, but in no case less than one-twelfth of said license fee;

13 (2) Wholesalers of alcoholic beverages ---- five thousand dollars;

1 (3) Off-sale ---- not to exceed five hundred dollars in municipalities of the first class, four  
2 hundred dollars in municipalities of the second class, and three hundred dollars in  
3 municipalities of the third class;

4 (4) On-sale ---- ~~in municipalities of various classes: municipalities of the first class, not~~  
5 ~~less than one dollar for each person residing within the municipality as measured by~~  
6 ~~the last preceding federal census, the renewal fee for such license is fifteen hundred~~  
7 ~~dollars; municipalities of the second class, no more than twelve hundred dollars;~~  
8 ~~municipalities of the third class, no more than nine hundred dollars~~ the fees for any  
9 permanent new one-year license shall be determined by the municipality or county. To  
10 determine this fee:

11 (a) The municipality shall set the fee based upon the fair market value of the  
12 license and shall consider the sale price of the latest sales of licenses in the  
13 municipality;

14 (b) In the area within three miles of the incorporated limits of each municipality,  
15 the county shall set the fee based upon the fair market value of the license and  
16 shall consider the sale price of the latest sales of licenses in the nearest  
17 municipality;

18 (c) In the area three or more miles outside the incorporated limits of each  
19 municipality, the county shall set the fee based upon the fair market value of  
20 the license and shall consider the sale price of the latest sales of licenses in the  
21 area of the county that is three miles outside of the incorporated limits of each  
22 municipality;

23 However, the fee in a municipality and within three miles of the incorporated limits  
24 of the nearest municipality may not be less than one dollar and fifty cents per resident

1 based upon the number of persons residing within the municipality according to the  
2 most recent federal census. The fee in the area of a county that is three or more miles  
3 outside of the incorporated limits of each municipality may not be less than one dollar  
4 and fifty cents per resident based upon the number of persons residing within the  
5 county but outside of each municipality according to the most recent federal census.  
6 The renewal fee for any license issued by a municipality may not be more than fifteen  
7 hundred dollars in municipalities of the first class, twelve hundred dollars in  
8 municipalities of the second class, and nine hundred dollars in municipalities of the  
9 third class. The renewal fee for any license issued outside a municipality may not be  
10 more than the fee charged for a like license in the nearest municipality;

11 (5) Off-sale licenses issued to municipalities under local option ---- two hundred fifty  
12 dollars;

13 (6) ~~On-sale licenses issued outside municipalities ---- except as provided in § 35-4-11.9,~~  
14 ~~not less than the maximum that the municipality to which the applicant is nearest is~~  
15 ~~charging for a like license in that municipality, the renewal fee shall be the same as is~~  
16 ~~charged for a like license in the nearest municipality. However, if the nearest~~  
17 ~~municipality is more than fifteen miles from the on-sale license, the fee shall be~~  
18 ~~established pursuant to § 35-4-11.10. If the municipality to which the applicant is~~  
19 ~~nearest holds an on-sale license, pursuant to § 35-3-13 and does not charge a~~  
20 ~~specified fee, then the fee shall be the maximum amount that could be charged as if~~  
21 ~~the municipality had not been authorized to obtain on-sale licenses pursuant to~~  
22 ~~§ 35-3-13. However, if the nearest municipality is a municipality of the first class and~~  
23 ~~is authorized to hold an on-sale license pursuant to § 35-3-13, such fee may not be~~  
24 ~~more than one hundred fifty percent of the minimum a municipality not so authorized~~

- 1           ~~may charge for a like license. The renewal fee shall be the same as could be charged~~  
2           ~~for a like license in the nearest municipality;~~
- 3       (7)   Solicitors ---- twenty-five dollars;
- 4       (8)   Transportation companies ---- twenty-five dollars;
- 5       (9)   Carrier ---- one hundred dollars, which fee shall entitle the licensee to sell or serve  
6           alcoholic beverages on all conveyances they operate within the state;
- 7       (10)  Dispensers ---- ten dollars;
- 8       (11)  On-sale dealers at publicly operated airports ---- two hundred fifty dollars;
- 9       (12)  On-sale dealers in wine for Sunday ---- five hundred dollars;
- 10      (13)  ~~Convention facility on-sale ---- not less than one dollar for each person residing within~~  
11           ~~the municipality as measured by the last preceding federal census, the renewal fee for~~  
12           ~~such license, in municipalities of the first class, is fifteen hundred dollars; the renewal~~  
13           ~~fee for such license, in municipalities of the second class, is no more than twelve~~  
14           ~~hundred dollars; the renewal fee for such license, in municipalities of the third class,~~  
15           ~~is no more than nine hundred dollars;~~
- 16      (14)  Manufacturers of malt beverages ---- five hundred dollars;
- 17      (15)  Wholesalers of malt beverages ---- four hundred dollars;
- 18      (16)  Malt beverage retailers, being both package dealers and on-sale dealers ---- two  
19           hundred fifty dollars;
- 20      (17)  Malt beverage package dealers ---- one hundred fifty dollars; and
- 21      (18)  On-sale dealers in light wine containing not more than six percent alcohol by weight  
22           for each day of the week between the hours of seven o'clock a.m. and two o'clock  
23           a.m. to nonprofit corporations established pursuant to chapter 7-27 ---- two hundred  
24           dollars.

1 Section 2. That chapter 35-4 be amended by adding thereto a NEW SECTION to read as  
2 follows:

3 If a liquor license issued pursuant to subdivision 35-4-2(4) is sold or transferred to a new  
4 licensee, the terms of the sale and the price of the license shall be reported under oath to the  
5 municipality or county by the seller and the purchaser. The municipality or county shall keep the  
6 terms of the sale and the price confidential and shall review and consider such information in  
7 setting the price of any new license during executive session. However, a municipality and  
8 county may share with each other the terms of any sale and price of a license for the purpose of  
9 establishing fair market value.

10 Section 3. That § 35-4-4 be repealed.

11 ~~35-4-4. No person, corporation, or business entity may be the holder of or have an interest~~  
12 ~~in more than three retail licenses issued under subdivision 35-4-2(3), (4), (6), or (13). However,~~  
13 ~~a person, corporation, or business entity may hold or have an interest in three additional retail~~  
14 ~~licenses issued under subdivision 35-4-2(4) if the licensee derives more than fifty percent of the~~  
15 ~~licensee's gross receipts from the sale of food at the location where the license is held. For~~  
16 ~~purposes of this section, location means one contiguous piece of real estate on which sales are~~  
17 ~~generated by the licensee.~~

18 Section 4. That § 35-4-4.1 be repealed.

19 ~~35-4-4.1. Notwithstanding the provisions of § 35-4-4, any person, corporation, or business~~  
20 ~~entity may be the holder of, or have an interest in, more than three on-sale retail licenses as long~~  
21 ~~as such licensee holds such licenses at a hotel-motel convention facility. A hotel-motel~~  
22 ~~convention facility as used in this section means a facility located in South Dakota and in a bona~~  
23 ~~fide manner used and kept open for the hosting of large groups of guests for compensation which~~  
24 ~~has at least one hundred beds which are suitable lodging accommodations and convention~~

1 facilities with seating for at least four hundred persons. However, for the purposes of hotel-motel  
2 convention facilities located in municipalities other than municipalities of the first class, the  
3 minimum number of rooms required as suitable lodging accommodations shall be fifty rooms.

4 Section 5. That § 35-4-10 be repealed.

5 — 35-4-10. No more than two off-sale licenses may be issued under this chapter to operate in  
6 a municipality of one thousand or less and not exceeding one license for every additional fifteen  
7 hundred of population or fraction thereof. The number of off-sale licenses may not be less than  
8 the total number of licenses allowable or issued as of July 1, 1981.

9 — The quotas established in this section do not apply to the licenses issued pursuant to  
10 subdivisions 35-4-2(16) and (17).

11 Section 6. That § 35-4-11 be amended to read as follows:

12 35-4-11. If not fixed by ordinance, the governing board of any municipality may on or before  
13 the first of September in each year, by resolution, determine the number of on-sale and off-sale  
14 licenses it will approve for the ensuing calendar year, and the fees to be charged for the various  
15 classifications of licenses. The number of on-sale licenses issued may not exceed three each for  
16 the first one thousand of population or fraction thereof and not exceed one each of such licenses  
17 for each additional one thousand five hundred of population or fraction thereof. The number of  
18 licenses allowable may not be less than the total number of licenses allowable or issued as of  
19 July 1, 1981. The municipal governing board shall at such meeting establish the fee for on-sale  
20 licenses pursuant to ~~subdivisions~~ subdivision 35-4-2(4) ~~and (13)~~. Such fee shall apply to all such  
21 on-sale licenses issued in the ensuing calendar year. ~~The quotas established in this section do not~~  
22 ~~apply to licenses issued pursuant to subdivisions 35-4-2(16) and (17).~~

23 Section 7. That § 35-4-11.1 be amended to read as follows:

24 35-4-11.1. If not previously fixed by ordinance or continuing resolution, the board of county

1 commissioners shall on or before the first of September in each year determine the number of  
2 on-sale licenses it will approve outside municipalities for the ensuing calendar year and the fees  
3 to be charged for the various classifications of licenses. ~~The number of licenses issued may not~~  
4 ~~exceed three for the first one thousand of population and may not exceed one for each additional~~  
5 ~~fifteen hundred of population or fraction thereof, the population to include only those residing~~  
6 ~~within the county but outside the incorporated municipalities and improvement districts, created~~  
7 ~~pursuant to chapter 7-25A, within the county. However, any license issued in an improvement~~  
8 ~~district prior to July 1, 2000, shall be included when calculating the total number of licenses that~~  
9 ~~may be issued by the county where the improvement district is located. No licensee regularly~~  
10 ~~licensed to do business on July 1, 1981, may be denied reissuance of a license in subsequent years~~  
11 ~~solely by reason of any limitations, based upon population quotas, of the number of licenses~~  
12 ~~authorized or established under the provisions of this title. Licenses issued to concessionaires,~~  
13 ~~and lessees of the State of South Dakota, within the boundaries of state parks, prior to January 1,~~  
14 ~~1983, may be subtracted when calculating the total number of licenses permitted in this section.~~  
15 ~~The quotas established in this section do not apply to licenses issued pursuant to subdivisions~~  
16 ~~35-4-2(16) and (17).~~

17 Section 8. That § 35-4-11.2 be repealed.

18 ~~— 35-4-11.2. Notwithstanding the provisions of § 35-4-11, each municipality may issue two~~  
19 ~~convention facility on-sale licenses for convention facilities substantially constructed within the~~  
20 ~~two years following issuance of such license. A hotel-motel convention facility as used in this~~  
21 ~~section is a facility located in South Dakota and in a bona fide manner used and kept open for~~  
22 ~~the hosting of large groups of guests for compensation which has at least one hundred rooms~~  
23 ~~which are suitable lodging accommodations and convention facilities with seating for at least four~~  
24 ~~hundred persons. However, for the purposes of hotel-motel convention facilities located in~~

1 municipalities other than municipalities of the first class, the minimum number of rooms required  
2 as suitable lodging accommodations shall be fifty rooms.

3 Section 9. That § 35-4-11.3 be repealed.

4 ~~35-4-11.3. The provisions of § 35-4-11.2 apply to any municipality that was a municipality  
5 of the first class on December 31, 1979.~~

6 Section 10. That § 35-4-11.6 be repealed.

7 ~~35-4-11.6. Any municipality may issue one on-sale license to be operated at a dog track  
8 licensed pursuant to § 42-7-58. The license shall be issued without regard to the population  
9 limitations established pursuant to § 35-4-11.~~

10 Section 11. That § 35-4-11.10 be repealed.

11 ~~35-4-11.10. If the on-sale license is located over fifteen miles from the nearest municipality,  
12 the renewal fee for any on-sale license issued outside a municipality shall be established by the  
13 county commission at a rate not to exceed the rate in the nearest municipality.~~

14 Section 12. That § 35-4-13 be amended to read as follows:

15 35-4-13. If by reason of the annexation of territory by any municipal corporation or county,  
16 the premises of an on-sale licensee shall be transferred from one jurisdiction to another, such  
17 licensee shall continue to legally operate until the expiration of such license. Thereafter, such  
18 licensee shall make application for his license renewal to the governing board which has  
19 jurisdiction of the licensed premises, and such license shall not be denied on the grounds that, by  
20 the issuance of such license, more on-sale licenses are in existence than is permitted by the  
21 limitations of this chapter.

22 Section 13. No licensee licensed before the effective date of this Act may be denied renewal  
23 of such license in subsequent years solely because of the provisions of this Act.

24 Section 14. The provisions of § 42-7A-64 apply to on-sale alcoholic beverage licenses issued

1 pursuant to the provisions of this Act.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

552E0462

## SENATE AGRICULTURE AND NATURAL RESOURCES COMMITTEE ENGROSSED NO. **SB 94** - 01/25/2001

Introduced by: Senators Bogue, Duxbury, Koetzle, McCracken, Moore, Reedy, and Sutton (Dan) and Representatives Jaspers, Bartling, Hennies (Thomas), Jensen, Kloucek, McCaulley, Michels, Monroe, Nachtigal, Rhoden, Sebert, and Slaughter

1 FOR AN ACT ENTITLED, An Act to establish a statute of limitations for veterinary services.

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

3 Section 1. An action against a veterinarian or any member of a veterinarian's staff for  
4 malpractice, error, mistake, or failure to cure, whether based upon contract or tort, may be  
5 commenced only within three years after the alleged malpractice, error, mistake, or failure to  
6 cure has occurred. However, the provisions of this section do not prohibit any counterclaim for  
7 malpractice, error, mistake, or failure to cure, as a defense to any action for services brought by  
8 a veterinarian.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

770E0577

SENATE TRANSPORTATION COMMITTEE

ENGROSSED NO. **SB 137** - 02/01/2001

Introduced by: Senators Diedtrich (Elmer) and Dennert and Representatives Sutton  
(Duane) and Frost

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the delivery of the  
2 certificate of title upon the sale of a secondhand vehicle.

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

4 Section 1. That § 32-3-7 be amended to read as follows:

5 32-3-7. ~~Every~~ Any person, firm, or corporation, upon the sale and delivery of any used or  
6 secondhand motor vehicle, shall within thirty days thereof deliver to the purchaser a certificate  
7 of title, endorsed according to law, and issued for the vehicle by the department. However,  
8 notwithstanding any other provision of law, if the purchaser defaults on the terms of the sale  
9 within the thirty-day period, the seller does not have to deliver the certificate of title to the  
10 purchaser. The seller shall notify the department in writing of the seller's refusal to deliver title  
11 to the purchaser within fourteen days of the purchaser's default on the terms of the sale. A  
12 violation of this section is a Class 2 misdemeanor.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

169E0486

## SENATE ENGROSSED NO. **SB 154** - 02/08/2001

Introduced by: Senators Bogue, Daugaard, de Hueck, Koetzle, Moore, and Whiting and  
Representatives Madsen, Brown (Jarvis), Gillespie, McCaulley, and  
Michels

1 FOR AN ACT ENTITLED, An Act to increase the penalty for practicing law without a license.

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

3 Section 1. That § 16-16-1 be amended to read as follows:

4 16-16-1. No person, ~~excepting~~ except as provided in § 16-18-2, ~~shall be permitted to~~ may  
5 practice as an attorney and counselor at law in any court of record within this state, either by  
6 using or subscribing his or her own name or the name of any other person ~~or persons~~, without  
7 having previously obtained a license for that purpose from the Supreme Court of this state and  
8 having become an active member in good standing of the State Bar of South Dakota. A violation  
9 of this section is a ~~Class 2~~ Class 1 misdemeanor.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

400E0755

## SENATE ENGROSSED NO. **SB 250** - 02/07/2001

Introduced by: Senators Bogue, Duxbury, Greenfield, and Moore and Representatives  
Jaspers, Broderick, Brown (Jarvis), Brown (Richard), Flowers, Michels,  
and Pederson (Gordon)

1 FOR AN ACT ENTITLED, An Act to provide that taking money or property from patients or  
2 inmates by certain institution employees constitutes theft.

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

4 Section 1. Any employee of the Department of Corrections or Department of Human  
5 Services who, for personal benefit, takes, borrows, or steals anything with a value of five dollars  
6 or more in property or money, from a patient, juvenile, or inmate who is under the care or  
7 supervision of the Department of Corrections or the Department of Human Services, is guilty  
8 of a Class 1 misdemeanor theft.

9 Section 2. For purposes of this Act, an employee of the Department of Corrections or the  
10 Department of Human Services means any person employed by the department, full or part time,  
11 including an individual under contract assigned to the department, an employee of another state  
12 agency assigned to the department, or a volunteer working in a department facility or for a  
13 department agency or program.