



# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

580I0382

## HOUSE LOCAL GOVERNMENT COMMITTEE

### ENGROSSED NO. **HB 1120** - 02/13/2003

Introduced by: Representatives Van Etten, Adelstein, Buckingham, Christensen, Cradduck, Cutler, Glenski, Haverly, Hennies, Kraus, McCaulley, McCoy, McLaughlin, Murschel, Rave, Thompson, Wick, and Williamson and Senators Vitter, Abdallah, Duniphan, Ham, and McCracken

1 FOR AN ACT ENTITLED, An Act to require that counties be reimbursed for housing persons  
2 sent to county jail in lieu of the penitentiary.

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

4 Section 1. That § 22-6-1.1 be amended to read as follows:

5 22-6-1.1. If a person is convicted of a Class 5 or Class 6 felony, the court may sentence the  
6 person so convicted to imprisonment in the county jail of the county where such person was  
7 convicted, for a term of not more than one year. The state shall reimburse any county of this  
8 state for the expenses the county incurs for housing such person. However, the reimbursement  
9 may not exceed fifty dollars per day. Upon receipt of the bill, the state shall make reimbursement  
10 within thirty days.

11 Section 2. That § 23A-27-18.1 be amended to read as follows:

12 23A-27-18.1. The conditions of probation imposed pursuant to § 23A-27-12 or 23A-27-13  
13 or the conditions of suspension of execution imposed pursuant to § 23A-27-18, may include the  
14 requirement that the defendant be imprisoned in the county jail for a specific period not



1 exceeding one hundred eighty days or in the state penitentiary for a specific period not exceeding  
2 one hundred eighty days or the sentence which was imposed or which may be imposed by law,  
3 whichever is less. The imprisonment may be further restricted to certain days specified by the  
4 court as part of such conditions. Any such imprisonment, either in the county jail or state  
5 penitentiary, shall be credited toward any incarceration imposed upon any subsequent revocation  
6 of a suspended imposition or execution of sentence. During any such imprisonment the defendant  
7 shall be subject to all policies, rules, and regulations of the county jail or state penitentiary. The  
8 state shall reimburse any county of this state for the expenses the county incurs for housing such  
9 person. However, the reimbursement may not exceed fifty dollars per day. Upon receipt of the  
10 bill, the state shall make reimbursement within thirty days.

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

385I0595

## HOUSE LOCAL GOVERNMENT COMMITTEE

### ENGROSSED NO. **HB 1190** - 02/13/2003

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

Introduced by: Representatives Pederson (Gordon), Adelstein, Haverly, Hennies, Kraus, McCoy, McLaughlin, and Van Etten and Senators Vitter, Ham, and Napoli

1 FOR AN ACT ENTITLED, An Act to limit the ability of certain municipalities to annex territory  
2 in the vicinity of certain airports.

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

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

6 No other municipality may annex any territory within one and one-quarter miles of any parcel  
7 of land operated as a municipal airport by an airport board organizer pursuant to chapter 50-6.  
8 However, if the governing body of the airport-operating municipality consents, by resolution,  
9 to such a proposed annexation by another municipality, the provisions of this section do not  
10 apply to the extent of the waiver provided in the consent resolution of the airport-operating  
11 municipality.

12 Section 2. That chapter 9-4 be amended by adding thereto a NEW SECTION to read as  
13 follows:

14 If any municipality other than a municipality that operates a municipal airport by an airport



1 board organized pursuant to chapter 50-6 has annexed any territory within one and one-quarter  
2 miles of any exterior boundary of such a municipal airport, the governing body of the airport-  
3 operating municipality may, by resolution, within three years of the date of such annexation, void  
4 all or any portion of such annexation within one and one-quarter miles of the exterior boundary  
5 of such municipal airport.

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

547I0640

## HOUSE LOCAL GOVERNMENT COMMITTEE

### ENGROSSED NO. **HB 1202** - 02/13/2003

Introduced by: Representatives Adelstein, Buckingham, Hennies, Kraus, McLaughlin, Pederson (Gordon), and Van Etten and Senators McCracken, Duniphan, and Ham

1 FOR AN ACT ENTITLED, An Act to provide for the annexation of certain municipal airports  
2 and to regulate certain extraterritorial jurisdiction conflicts.

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

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

5 9-4-1. The governing body of a municipality, upon receipt of a written petition describing  
6 the boundaries of any territory contiguous to that municipality sought to be annexed to that  
7 municipality, may by resolution include such territory or any part thereof within such municipality  
8 if the petition is signed by not less than three-fourths of the registered voters and by the owners  
9 of not less than three-fourths of the value of the territory sought to be annexed to the  
10 municipality.

11 For purposes of this section, "~~contiguous~~" includes territory is deemed contiguous even  
12 though separated from the municipality by reason of intervening ownership of land used as a golf  
13 course or any land owned by the State of South Dakota or any subdivisions thereof. Also for  
14 purposes of this section, territory is deemed contiguous if the separated parcel is used as an



1 airport, is operated by an airport board organized pursuant to chapter 50-6, and is within ten  
2 miles of a municipality of more than fifty thousand population which created the airport board  
3 for the purpose of operating the airport as the municipality's principal public airport. If a  
4 municipality annexes such a separate parcel which is used as an airport, the municipality may  
5 exercise the municipality's extraterritorial jurisdiction pursuant to § 11-6-26 but only within one  
6 and one-quarter miles of the separate parcel. If such one and one-quarter mile extraterritorial  
7 jurisdiction overlaps the three-mile extraterritorial jurisdiction of any other municipality, the  
8 jurisdiction of the former prevails over the jurisdiction of the latter.

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

391I0364

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

**HB 1211 - 02/12/2003**

Introduced by: Representatives Bradford, Adelstein, Bartling, Elliott, Engels, Gillespie, Glenski, Hanson, Hennies, Hundstad, Hunhoff, Kroger, Lange, Miles, Nesselhuf, Olson (Mel), Peterson (Jim), Sigdestad, Valandra, and Van Norman and Senators Moore, Abdallah, and Kloucek

1 FOR AN ACT ENTITLED, An Act to allow the housing of prisoners from other jurisdictions  
2 on Indian reservations under certain circumstances.

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

4 Section 1. That § 24-11-3 be amended to read as follows:

5 24-11-3. If there is no jail or juvenile detention facility in the county, or if the jail or juvenile  
6 detention facility in the county is crowded, unsafe, or otherwise insufficient to conform to the  
7 requirements of this chapter, every judicial or executive officer of the county who has the power  
8 to order, sentence, or deliver any person to the county jail or juvenile detention facility may  
9 order, sentence, or deliver such person to the jail or juvenile detention facility of any near or  
10 adjoining state, Indian reservation, county, organized township, or municipality, pursuant to a  
11 written agreement to house such prisoner. The written agreement shall provide that, upon  
12 request, the agency housing the prisoner shall provide for the release of the prisoner to the  
13 county from which the prisoner was committed. The county from which the prisoner was  
14 committed shall pay to the agency housing the prisoner all expenses of keeping and maintaining



- 1 the prisoner in the jail or juvenile detention facility, including the cost of building depreciation,
- 2 administration, and a reasonable charge for obsolescence of the facility and all other tangible and
- 3 intangible costs.

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

355I0730

HOUSE HEALTH AND HUMAN SERVICES  
COMMITTEE ENGROSSED NO. **HB 1226** -  
02/14/2003

Introduced by: Representatives Novstrup, Deadrick (Thomas), Frost, Gillespie, Kraus, and Weems and Senators Kooistra and Sutton (Duane)

1 FOR AN ACT ENTITLED, An Act to revise who may complete home studies for adoptions.

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

3 Section 1. That § 25-6-9.1 be amended to read as follows:

4 25-6-9.1. No person may place a child in a home for adoption until a home study has been  
5 completed by a licensed child placement agency as defined in § 26-6-14, the Department of  
6 Social Services, or a certified social worker eligible to engage in private independent practice as  
7 defined in § 36-26-17 and the report has been filed with the Department of Social Services. Any  
8 person who submitted home studies under this section or under § 26-4-15 prior to July 1, 1990,  
9 may continue to submit home study reports without meeting the above requirements. A home  
10 study ~~conducted by a certified social worker in private independent practice~~ shall include a  
11 criminal record check completed by the Division of Criminal Investigation and a central registry  
12 screening completed by the Department of Social Services. Any person who violates the  
13 provisions of this section is guilty of a Class 1 misdemeanor.



# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

652I0735

HOUSE HEALTH AND HUMAN SERVICES  
COMMITTEE ENGROSSED NO. **HB 1234** -  
02/14/2003

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

Introduced by: Representatives Hunhoff, Adelstein, Craddock, Frost, Garnos, Heineman, Kraus, Madsen, Michels, Miles, Olson (Mel), Peterson (Bill), Rhoden, Teupel, Van Etten, and Wick and Senators Olson (Ed), Abdallah, Albers, Brown, and Moore

1 FOR AN ACT ENTITLED, An Act to create a commission on health care.

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

3 Section 1. There is created the South Dakota Commission on Health Care within the Office  
4 of the Governor. The commission shall gather data to assess the health status of South Dakotans,  
5 identify priorities for health care that address financing, delivery, and programming, and develop  
6 measurable health care outcomes that describe the achievement for selected statewide initiatives.  
7 The commission shall also recommend health care policy, monitor health care environments, and  
8 address the health care needs of South Dakotans.

9 Section 2. The commission shall be appointed by the Governor and shall consist of no more  
10 than twenty-five members. The secretary of health, the secretary of human services, the secretary  
11 of social services, and the director of the division of insurance shall serve as ex officio members  
12 in an advisory capacity. The additional members of the commission shall be representative of  
13 each of the following groups:



- 1 (1) Business/employers;
- 2 (2) Consumers;
- 3 (3) Insurers;
- 4 (4) Health care providers;
- 5 (5) Public/community health workers;
- 6 (6) Governor's office;
- 7 (7) Former legislators;
- 8 (8) Tribal members;
- 9 (9) Mental health providers; and
- 10 (10) Indian Health Services.

11 Section 3. The term for each member, other than an ex officio member, shall be a term of  
12 three years, and each may be reappointed once.

13 Section 4. The commission shall select a chair from among its members. The commission  
14 shall meet at least three times each year. However, it may meet more often at the call of the chair  
15 or upon written request of a majority of the members.

16 Section 5. The commission shall annually report its findings and recommendations to the  
17 Governor and the Legislature by December first.

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

299I0749

HOUSE EDUCATION COMMITTEE ENGROSSED NO.

**HB 1251** - 02/14/2003

Introduced by: Representative Gassman and Senator Kloucek

1 FOR AN ACT ENTITLED, An Act to allow school districts to pay property insurance  
2 premiums from their capital outlay funds.

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

4 Section 1. That § 13-16-6 be amended to read as follows:

5 13-16-6. The capital outlay fund of the school district is a fund provided by law to meet  
6 expenditures which result in the acquisition or lease of or additions to real property, plant, or  
7 equipment. Such an expenditure shall be for land, existing facilities, improvement of grounds,  
8 construction of facilities, additions to facilities, remodeling of facilities, or for the purchase or  
9 lease of equipment. It may also be used for installment or lease-purchase payments for the  
10 purchase of real property, plant or equipment, which have a contracted terminal date not  
11 exceeding twenty years from the date of the installment contract or lease-purchase and for the  
12 payment of the principal of and interest on capital outlay certificates issued pursuant to  
13 § 13-16-6.2.

14 Any purchase of one thousand dollars or less may be paid out of the general fund. The total  
15 accumulated unpaid principal balances of such installment contracts and lease-purchase and the



1 outstanding principal amounts of such capital outlay certificates may not exceed three percent  
2 of the taxable valuation. The school district shall provide a sufficient levy each year under the  
3 provisions of § 13-16-7 to meet the annual installment contract, lease-purchase and capital outlay  
4 certificate payments, including interest.

5 A school district which contracts its student transportation may expend from the capital  
6 outlay fund an amount not to exceed fifteen percent of the contract amount.

7 The capital outlay fund may be used to purchase textbooks and instructional software.

8 The capital outlay fund may be used to purchase warranties on capital assets if the warranties  
9 do not include supplies.

10 The capital outlay fund may be used to pay property insurance premiums.

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

77110185

## SENATE ENGROSSED NO. **SB 10** - 01/30/2003

Introduced by: The Committee on Local Government at the request of the Secretary of State

1 FOR AN ACT ENTITLED, An Act to revise certain provisions concerning the publication of  
2 facsimile ballot.

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

4 Section 1. That § 9-13-13 be amended to read as follows:

5 9-13-13. A notice of each municipal election shall be published once each week for two  
6 successive weeks, the first publication may not be less than ten days prior to the election. A  
7 facsimile of the official ballot shall be published ~~at least four days~~ in the calendar week prior to  
8 each election. The notice and ballot shall be published in the official newspaper or newspapers  
9 of the municipality as designated in § 9-12-6.

10 If no newspaper is published in the municipality, the notice shall also be posted in three of  
11 the most public places in the municipality.

12 Section 2. That § 12-16-16 be amended to read as follows:

13 12-16-16. The county auditor shall publish in each official newspaper of the county,  
14 facsimiles of the official ballots of ~~every~~ each election in which the voters of the entire county  
15 participate. The facsimile shall be published once in each legal newspaper ~~at least four days~~ in  
16 the calendar week prior to each election. The newspaper shall receive for the publications,



1 compensation at the same rate as the general display rate for the newspaper. The published  
2 facsimile may be reduced in size proportionately up to fifty percent but in no case may the ballot  
3 wording be in a type less than eight point. If a portion of a candidate ballot is not voted on in the  
4 entire county, a facsimile of that portion of the ballot may be published simultaneously but  
5 separate from the candidate ballot and shall contain a description of who will vote on that portion  
6 of the ballot. If at least fifty percent of a ballot is blank, the blank portion does not need to be  
7 printed.

8 Section 3. That § 13-7-8 be amended to read as follows:

9 13-7-8. The business manager of the school district shall publish in the official newspaper  
10 notices of an election once each week for two consecutive weeks with the first publication not  
11 less than ten days before the election. The notice shall state the date of the coming school  
12 election, the vacancies to be filled with terms of each, the candidates who have filed for these  
13 vacancies, questions, if any, to be submitted at the election, and the location of polling places.  
14 A facsimile of the official ballot shall be published ~~at least four days~~ in the calendar week prior  
15 to each election.

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

400I0207

## HOUSE AGRICULTURE AND NATURAL RESOURCES COMMITTEE ENGROSSED NO. **SB 23** - 02/13/2003

Introduced by: The Committee on Agriculture and Natural Resources at the request of the  
Department of Agriculture

1 FOR AN ACT ENTITLED, An Act to grant counties greater authority to prohibit the use of  
2 fireworks during periods of extreme fire danger.

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

4 Section 1. That § 34-37-19 be amended to read as follows:

5 34-37-19. Any county may, by resolution, regulate or prohibit the use of fireworks, other  
6 than fountains, ground spinners, toy novelties, sparklers, and smoke items, outside the  
7 boundaries of any municipality in those areas where the fire danger, as determined by use of the  
8 rangeland fire index as established by rule promulgated pursuant to chapter 1-26, by the secretary  
9 of agriculture ~~or his designee~~, has reached the extreme category in that county ~~for two~~  
10 ~~consecutive days~~ during the period from June twentieth ~~through June twenty-seventh~~ to July  
11 fifth, inclusive. During such period, the county's action is suspended if the rangeland fire index  
12 falls below the very high category and shall again become effective if the rangeland fire index  
13 reaches the extreme category.



# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

770I0290

SENATE APPROPRIATIONS COMMITTEE

ENGROSSED NO. **SB 29** - 01/31/2003

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 construct an addition  
2 to the Darold "Dud" King Physical Education Center at the South Dakota School of Mines  
3 and Technology and to make an appropriation therefor.

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

5 Section 1. The South Dakota Board of Regents may contract for the construction,  
6 completion, finishing, equipping, and maintaining of an addition to the Darold "Dud" King  
7 Physical Education Center at the South Dakota School of Mines and Technology in Rapid City,  
8 including utilities, furnishings, architectural and engineering services, asbestos abatement, site  
9 preparation, and the construction of sidewalks and driveways and landscaping the grounds of  
10 that facility at the estimated cost of five hundred ninety thousand three hundred dollars  
11 (\$590,300).

12 Section 2. Funding for the project authorized in section 1 of this Act is to be provided from  
13 gifts and grants to the South Dakota School of Mines and Technology for this purpose. The  
14 Board of Regents may accept any gifts for the purposes authorized by this Act, and all such  
15 moneys so contributed are hereby appropriated to the Board of Regents.



1       Section 3. The design and construction of the facilities approved by this Act shall be under  
2 the general supervision of the Bureau of Administration as provided in chapter 5-14.

3       Section 4. The commissioner of the Bureau of Administration and the executive director of  
4 the Board of Regents shall approve vouchers and the state auditor shall draw warrants to pay  
5 expenditures authorized by this Act.

6       Section 5. No general fund dollars may be used for maintenance and repair of the facility  
7 authorized by this Act, nor may the facility be added to any list of projects receiving funding  
8 support from the statewide maintenance and repair fund created in § 5-14-30.

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

707I0332

## SENATE ENGROSSED NO. **SB 41** - 02/05/2003

Introduced by: The Committee on Commerce at the request of the Public Utilities  
Commission

1 FOR AN ACT ENTITLED, An Act to provide for the creation of a no solicitation calls list for  
2 persons wishing not to receive unsolicited telephone calls, to create a telephone solicitation  
3 account, and to establish certain fees and civil penalties.

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

5 Section 1. That § 49-31-1 be amended to read as follows:

6 49-31-1. Terms used in this chapter mean:

- 7 (1) "Addressable," enabling users to connect and communicate with a specific party easily  
8 and securely on a dial-up, addressable basis;
- 9 (2) "Available," ensuring that network services are available if the user requires them,  
10 even at times of peak usage; designed to be a nonblocking network, minimizing  
11 network contention;
- 12 (3) "Broadband network," the broadband network extends the range of fully switched,  
13 addressable, robust transport services over the fiber network which increase in  
14 multiples of OC-1 (51.84 Mbps), including OC-3 (155.52 Mbps) and OC-12 (622.08  
15 Mbps);



- 1 (4) "Centron and centron-like services," services which provide custom switching features  
2 which include distributive dial tone, select number screening, toll restriction and  
3 screening, nonattendant busy out, nonattend and call transfer, and select trunk hunting  
4 and screening;
- 5 (5) "Commission," the Public Utilities Commission;
- 6 (6) "Common carrier," anyone who offers telecommunications services to the public;
- 7 (7) "Eligible telecommunications carrier," a local exchange carrier designated by the  
8 commission pursuant to 47 U.S.C. § 214(e) as of January 1, 1998, as eligible to  
9 receive universal service support funding;
- 10 (8) "Feature rich," providing the specific features and functionality required by users'  
11 voice, data, video, graphics, imaging, and multimedia applications; functionally  
12 beyond mere transport;
- 13 (8A) "Financial institution," any financial institution as defined in 15 U.S.C. § 6827 as of  
14 January 1, 2003, including any financial institution affiliate that controls, is controlled  
15 by, or is under common control with the financial institution;
- 16 (9) "Incumbent local exchange carrier," a local exchange carrier, including successors and  
17 assigns, which was providing local exchange service within a defined service area in  
18 this state on or before February 8, 1996;
- 19 (10) "Interexchange telecommunications service," telecommunications service between  
20 points in two or more exchanges;
- 21 (11) "LATA," a local access and transport area;
- 22 (12) "Local exchange area," a any geographic area established by a local exchange carrier  
23 as filed with or approved by the commission for the administration of local  
24 telecommunications service which may consist of one or more central offices or wire

1 centers together with associated facilities used in furnishing telecommunications  
2 service in that area;

3 (13) "Local exchange service," the access to and transmission of two-way switched  
4 telecommunications service within a local exchange area;

5 (14) "Narrowband network," a fully switched digital network covering the transport range  
6 from 0 to 144,000 bits per second (144 Kbps), offering two 64 Kbps information B  
7 (Bearer) channels and a 16 Kbps signaling D (Delta) channel;

8 (15) "New products and services," any new product or service introduced after July 1,  
9 1988, which is not functionally required to provide local exchange service.  
10 Repackaging of any product or service which is fully competitive with any service  
11 regulated as emerging competitive or noncompetitive is not considered a new product  
12 or service;

13 (16) "Optional service," a any limited or discretionary service offered by a  
14 telecommunications company which is not functionally required for the provision of  
15 noncompetitive services and which the customer has the option to purchase;

16 (17) "Private," ensuring confidentiality and integrity of network transport of messages  
17 without dependency on specialized customer premise security devices;

18 (18) "Rate of return regulation," the procedure used by the commission to approve the  
19 charge for a service which gives due consideration to the public need for adequate,  
20 efficient, and reasonable service and to the need of the public utility for revenues  
21 sufficient to enable it to meet its total current cost of furnishing such service, including  
22 taxes and interest, and including adequate provision for depreciation of its utility  
23 property used and necessary in rendering service to the public, and to earn a fair and  
24 reasonable return upon the value of its property;

- 1       (19) "Register," a list of names and telephone numbers of residential telephone subscribers  
2       who have properly enrolled to prevent unsolicited telephone calls;
- 3       (20) "Residential telephone subscriber," any person residing in the state who has residential  
4       telephone service, including cellular service, personal communications service, and  
5       wireless local loop service, primarily used for personal use;
- 6       (21) "Robust," easily and economically sustaining the rigors of growth and extensive public  
7       use;
- 8       ~~(20)~~(22) "Rural telephone company," a any local exchange company as defined in 47  
9       U.S.C. § 153(37) as of January 1, 1998;
- 10      ~~(21)~~(23) "Secure," physically precluding unwanted access to network and information;
- 11      ~~(22)~~(24) "Service area," a geographic area established by the commission for the  
12      purpose of determining universal service obligations and support mechanisms.  
13      For a rural telephone company, the service area is the company's study area or  
14      any other area designated jointly by the commission and the Federal  
15      Communications Commission pursuant to 47 U.S.C. § 214(e)(5) as of  
16      January 1, 1998;
- 17      ~~(23)~~(25) "Standard," supporting universal interfaces and networking standards and  
18      protocols of generally accepted standards setting bodies;
- 19      ~~(24)~~(26) "Switched," providing circuit, packet, or channel type switching, each suited  
20      to specific application requirements;
- 21      ~~(25)~~(27) "Switched access," ~~an~~ any exchange access service purchased for the  
22      origination and termination of interexchange telecommunications services  
23      which includes central office switching and signaling, local loop facility, or  
24      local transport;

1       ~~(26)~~(28)     "Telecommunications company," any person or municipal corporation owning,  
2                             operating, reselling, managing, or controlling in whole or in part, any  
3                             telecommunications line, system, or exchange in this state, directly or  
4                             indirectly, for public use. For purposes of this definition the term, for public  
5                             use, means for the use of the public in general or for a specific segment of the  
6                             public, or which connects to the public in general or for a specific segment of  
7                             the public, or which connects to the public switched network for access to any  
8                             telecommunications service;

9       ~~(27)~~(29)     "Telecommunications service," the transmission of signs, signals, writings,  
10                            images, sounds, messages, data, or other information of any nature by wire,  
11                            radio, lightwaves, electromagnetic means, or other similar means. It does not  
12                            include the provision of terminal equipment used to originate or terminate such  
13                            service, broadcast transmissions by radio, television, and satellite stations  
14                            regulated by the Federal Communications Commission and one-way cable  
15                            television service;

16       (30)     "Telephone solicitation call," any call made to a South Dakota consumer by a  
17                            telephone solicitor, originating from South Dakota or elsewhere, for the purpose of  
18                            soliciting a sale of any consumer goods or services to the person called, for the  
19                            purpose of soliciting an extension of credit for consumer goods or services to the  
20                            person called, or for the purpose of obtaining information that may be used for the  
21                            direct solicitation of a sale of consumer goods or services to the person called or an  
22                            extension of credit for such purposes;

23       (31)     "Telephone solicitor," any person or organization who individually or through  
24                            salespersons, makes or causes to be made a telephone solicitation call. This term does

1 not include any not-for-profit or charitable organization exempt from federal income  
 2 taxation pursuant to section 501(c)(3) of the Internal Revenue Code of 1986 as of  
 3 January 1, 2003, which makes telephone calls solely to solicit a charitable donation;

4 (32) "Unsolicited telephone call," any telephone solicitation call other than a call made:

5 (a) In response to an express request of the person called;

6 (b) Primarily in connection with an existing debt or contract, payment or  
 7 performance of which has not been completed at the time of such call;

8 (c) To any person with whom the telephone solicitor, or any business or financial  
 9 institution on whose behalf the telephone call is being made has an established  
 10 business relationship or a business relationship that existed within the  
 11 immediately preceding twelve months; or

12 (d) To any person for the purpose of obtaining information and establishing a date  
 13 and time for an appointment with the telephone solicitor which will take place  
 14 at the solicitor's place of business or the consumer's home and the call is not  
 15 made by an automated telephone dialing system. For purposes of this  
 16 subsection, an automated telephone dialing system is any automatic terminal  
 17 equipment that stores or produces numbers to be called randomly or  
 18 sequentially;

19 ~~(28)~~(33) "Wideband network," the wideband network extends the range of fully  
 20 switched, digital, addressable information transport from the 144 Kbps to the  
 21 DS3 rate of 44.736 Mbps, including the DS1 and DS2 rates of 1.544 Mbps and  
 22 6.312 Mbps, respectively.

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

1 Any telephone solicitor who makes unsolicited telephone calls shall institute procedures that  
2 comply with the provisions of this Act for obtaining a list of persons who do not wish to receive  
3 unsolicited telephone calls made by or on behalf of the telephone solicitor. No telephone solicitor  
4 who makes unsolicited telephone calls may call any number listed on the register. The  
5 commission may promulgate rules, pursuant to chapter 1-26, concerning procedures and  
6 requirements regarding the implementation of a register, setting of fees for purchase of the  
7 register, form of the application, requirements for acquiring a copy of the register, requirements  
8 for enrollment on and removal from the register, procedures for maintaining a register, setting  
9 of fees to enroll or renew enrollment on the register, procedures for operating the register,  
10 standards concerning the use of the register, and application of the civil fines.

11 Section 3. That chapter 49-31 be amended by adding thereto a NEW SECTION to read as  
12 follows:

13 The commission shall maintain a register of names and telephone numbers of each South  
14 Dakota residential telephone subscriber who has elected not to receive unsolicited telephone  
15 calls.

16 Section 4. That chapter 49-31 be amended by adding thereto a NEW SECTION to read as  
17 follows:

18 Any telephone solicitor who makes unsolicited telephone calls to South Dakota residential  
19 telephone subscribers shall obtain a copy of the register from the commission. The register shall  
20 be updated not more often than quarterly. Each telephone solicitor shall submit an application  
21 to the commission to obtain a copy of the register. Any telephone solicitor desiring to make an  
22 unsolicited telephone call shall update his or her copy of the register within thirty days after the  
23 receipt of the register.

24 Section 5. That chapter 49-31 be amended by adding thereto a NEW SECTION to read as

1 follows:

2 There is hereby established in the state treasury, the telephone solicitation account. Unless  
3 otherwise provided by law, this fund shall consist of all fees and fines imposed pursuant to this  
4 Act designated for deposit in the fund. The fund shall be maintained separately and administered  
5 by the commission to implement and administer provisions of this Act. Any interest earned on  
6 money in the fund shall be deposited in the fund. Expenditures from the fund shall be budgeted  
7 through the normal budget process. Unexpended funds and interest shall remain in the fund until  
8 appropriated by the Legislature. Any expenditure from the fund shall be disbursed on warrants  
9 drawn by the state auditor and shall be supported by vouchers approved by the commission.

10 Section 6. That chapter 49-31 be amended by adding thereto a NEW SECTION to read as  
11 follows:

12 Any telephone solicitor who makes unsolicited telephone calls to South Dakota residential  
13 telephone subscribers shall pay to the commission an annual fee of not more than five hundred  
14 dollars. Fees collected under this section shall be credited to the telephone solicitation account.

15 Section 7. That chapter 49-31 be amended by adding thereto a NEW SECTION to read as  
16 follows:

17 The commission shall establish or provide for the operation of a register. The register may  
18 be operated by the commission or by another entity under contract with the commission. A  
19 residential telephone subscriber may enroll on the register in accordance with procedures  
20 prescribed by the commission. A subscriber shall pay to the commission a fee, set pursuant to  
21 section 2 of this Act, of not more than five dollars to be listed on the register. Fees collected  
22 under this section shall be credited to the telephone solicitation account established in section 5  
23 of this Act.

24 Section 8. That chapter 49-31 be amended by adding thereto a NEW SECTION to read as

1 follows:

2 Notwithstanding the provisions of chapter 49-1A, the commission may use amounts  
3 deposited in the gross receipts tax fund to implement this Act. All funds used shall be returned  
4 to the gross receipts tax fund within three years of implementation of the register.

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

7 Any telecommunications company that provides local exchange service shall inform its  
8 customers of the provisions of this Act by publication of the notice in the consumer pages of its  
9 telephone directories.

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

12 Any person who violates this Act or any rules promulgated pursuant to this Act is subject  
13 to a civil penalty to be imposed by the commission, after notice and opportunity for hearing. The  
14 commission may impose a civil fine of not more than five thousand dollars for each offense. In  
15 determining the amount of the penalty upon finding a violation, or the amount of a compromise  
16 settlement, the commission shall consider the appropriateness of the penalty to the size of the  
17 business of the person charged, prior offenses and compliance history, and the good faith of the  
18 person charged in attempting to achieve compliance. Any telephone solicitation made to a person  
19 whose name first appears on the register is not a violation of this Act if the solicitation is made  
20 within thirty days of the receipt of the register. Any penalty collected pursuant to this section  
21 shall be credited to the telephone solicitation account established pursuant to section 5 of this  
22 Act.

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

400I0554

SENATE APPROPRIATIONS COMMITTEE

ENGROSSED NO. **SB 80** - 01/31/2003

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

1 FOR AN ACT ENTITLED, An Act to establish the Richard Hagen-Minerva Harvey memorial  
2 scholarship program and to make an appropriation therefor.

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

4 Section 1. Pursuant to the donation and intent of Minerva I. Harvey, deceased August 25,  
5 1999, as expressed by Article 2 of her Last Will and Testament and presented for probate in the  
6 State of New Jersey, Gloucester County Surrogate's Court, there is hereby established within the  
7 Department of Education and Cultural Affairs the Richard Hagen-Minerva Harvey memorial  
8 scholarship program.

9 Section 2. The Richard Hagen-Minerva Harvey memorial scholarship program shall be  
10 administered by a five-member board named the Richard Hagen-Minerva Harvey Memorial  
11 Scholarship Board which is hereby established. The members shall be appointed by the Governor  
12 for a term of five years, except that the initial appointments shall be for periods of one, two,  
13 three, four, and five years. The Governor shall appoint one member as the temporary chair of the  
14 board. The board shall elect officers at its first meeting. The board shall meet no more than four  
15 times a year, not including telephonic conferences, as may be necessary to complete its



1 responsibilities as prescribed by this Act. No more than three members of the board may be of  
2 the same political party. At least two members of the board shall be enrolled members of a tribe  
3 located in South Dakota. A majority of the board shall be present either personally or  
4 telephonically to constitute a quorum.

5 Section 3. In order to be eligible for a Richard Hagen-Minerva Harvey memorial scholarship  
6 award, a student shall:

- 7 (1) Have graduated from a South Dakota accredited high school;
- 8 (2) Have met high school graduation requirements established by rules promulgated  
9 pursuant to chapter 1-26 by the Department of Education and Cultural Affairs;
- 10 (3) Attend a public or nonpublic accredited university, college, or technical institute  
11 located in South Dakota;
- 12 (4) Apply for a Richard Hagen-Minerva Harvey memorial scholarship within one year  
13 after graduating from high school or within one year of the student's release from  
14 active duty with an active component of the armed forces if the release is within five  
15 years of the student's graduation from high school; and
- 16 (5) Be an enrolled member of a tribe whose reservation is located in whole or part in  
17 South Dakota.

18 Section 4. Scholarship award payments shall be made to the institution at the beginning of  
19 the fall or spring semester on behalf of the eligible student who has received a Richard Hagen-  
20 Minerva Harvey memorial scholarship. The amount of the award is as follows:

- 21 (1) Not less than one thousand dollars for the first year of attendance;
- 22 (2) Not less than one thousand dollars for the second year of attendance;
- 23 (3) Not less than one thousand five hundred dollars for the third year of attendance; and
- 24 (4) Not less than two thousand five hundred dollars for the fourth year of attendance.

1 Section 5. The board may award no more than seven scholarships per year.

2 Section 6. In order to maintain eligibility, a student who has been awarded a Richard Hagen-  
3 Minerva Harvey memorial scholarship shall:

4 (1) Maintain a cumulative 2.5 grade point average on a 4.0 grade point scale;

5 (2) Be continuously enrolled for the fall and spring semesters in a public or nonpublic  
6 accredited university, college, or technical institution; and

7 (3) Complete the equivalent of at least fourteen credit hours of instruction per semester.

8 Section 7. If factors beyond the control of a student who has been awarded a Richard Hagen-  
9 Minerva Harvey memorial scholarship prevent the student from meeting the requirements in  
10 section 6 of this Act, the board may temporarily waive the requirements of section 6 of this Act  
11 as eligibility criteria.

12 Section 8. The Department of Education and Cultural Affairs shall provide necessary support  
13 services to the board created by this Act.

14 Section 9. There is hereby continuously appropriated to the Department of Education and  
15 Cultural Affairs any other fund expenditure authority necessary for the department to accept and  
16 expend money the department may receive from any source for the purpose for providing a  
17 Richard Hagen-Minerva Harvey memorial scholarship.

18 Section 10. The secretary of the Department of Education and Cultural Affairs shall approve  
19 vouchers and the state auditor shall draw warrants to pay expenditures authorized by this Act.

20 Section 11. The Department of Education and Cultural Affairs may promulgate rules  
21 pursuant to this Act and chapter 1-26 to accept applications for a Richard Hagen-Minerva  
22 Harvey memorial scholarship, establish criteria to award a Richard Hagen-Minerva Harvey  
23 memorial scholarship, and to maintain eligibility for a Richard Hagen-Minerva Harvey memorial  
24 scholarship.

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

444I0525

## SENATE AGRICULTURE AND NATURAL RESOURCES COMMITTEE ENGROSSED NO. **SB 145** - 02/06/2003

Introduced by: Senators Sutton (Duane), Dennert, Duxbury, Moore, Sutton (Dan), and Symens and Representatives Burg, Elliott, Frost, Hundstad, and Novstrup

1 FOR AN ACT ENTITLED, An Act to revise certain Central Plains Water Development District  
2 boundaries.

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

4 Section 1. That § 46A-3A-2 be amended to read as follows:

5 46A-3A-2. The Central Plains Water Development District is hereby established. The Central  
6 Plains Water Development District includes all of ~~Hand County; Franklin, Union, Banner, Spring~~  
7 ~~Lake, Illinois, Eden, Valley, Douglas, Washington, Loomis, Lincoln, William Hamilton,~~  
8 ~~Holabird, Highmore, and Bramhall townships in Hyde County; Peoria, Mentor, Bryon, Logan,~~  
9 ~~Blunt, Bretton, Harrold, Buckeye, Dry Run, and Canning townships in Hughes County; Lake and~~  
10 ~~Elk townships in Sully County; Enterprise, Freedom, Emerson, Fairview, Saratoga, Pulaski,~~  
11 ~~Myron, Devoe, Wesley, Bryant, Tamworth, Lafoon, Centerville, Pioneer, Orient, Arcade,~~  
12 ~~Hillsdale, and Zell townships in Faulk County; Exline, Redfield, Lodi, Frankfort, Lake, Tulare,~~  
13 ~~Crandon, Lincoln, Buffalo, Garfield, Belmont, and Cornwall townships in Spink County; Nance,~~  
14 ~~Bonilla, Altoona, Pleasant View, Whiteside, Allen, Broadland, Fairfield, Iowa, Wessington,~~  
15 ~~Wolsey, Hartland, Theresa, Valley, Sand Creek, Vernon, Dearborn, Clyde, Custer, Burr Oak,~~



- 1 ~~Kellogg, Carlyle, Grant, and Clifton townships in Beadle County; Faulk, Hand, Hughes, Hyde,~~
- 2 Potter, and Sully counties and all municipalities that lie wholly or partially within the included
- 3 area or that are contiguous to the included area.