



# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

447J0335

## SENATE ENGROSSED NO. **HB 1083** - 01/30/2004

Introduced by: The Committee on Commerce at the request of the Office of the Secretary of State

1 FOR AN ACT ENTITLED, An Act to require the secretary of state to grant access to secured  
2 parties to record certain financing statements for security interests or agricultural liens.

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

4 Section 1. That § 57A-9-501.2 be amended to read as follows:

5 57A-9-501.2. The secretary of state shall ~~conduct a pilot~~ maintain a program granting a  
6 secured party ~~the access to allow the secured party to file and provide a procedure to record the~~  
7 ~~secured party's liens on real property pursuant to § 57A-9-501~~ through the state's computer  
8 system. ~~The secretary shall determine the procedure and the parameters on how the pilot~~  
9 ~~program shall be implemented and select the lenders to participate in the pilot program to record~~  
10 liens on real property pursuant to § 57A-9-501. The secretary may promulgate rules, pursuant  
11 to chapter 1-26, concerning the procedure for providing a secured party access to, adequate  
12 security for, and confidentiality of any public records related to the secured party's liens listed  
13 on the state's computer system.

14 Section 2. That section 2 of chapter 226 of the 2002 Session Laws be repealed.



# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

724J0349

HOUSE TRANSPORTATION COMMITTEE  
ENGROSSED NO. **HB 1117** - 01/28/2004

Introduced by: Representatives Hargens, Cutler, Hunhoff, Madsen, and Sebert and Senators Moore, Duniphan, and Olson (Ed)

1 FOR AN ACT ENTITLED, An Act to revise the requirements for operating a motor vehicle  
2 with an instruction permit.

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

4 Section 1. That § 32-12-11 be amended to read as follows:

5 32-12-11. Any person who is at least fourteen years of age but less than eighteen years of  
6 age applying for a South Dakota operator's license, restricted minor's permit, or instruction  
7 permit who does not currently hold an operator's license, motorcycle operator's license,  
8 restricted minor's permit, motorcycle restricted minor's permit, instruction permit, or motorcycle  
9 instruction permit that has been valid continuously for one hundred eighty days, shall apply to  
10 the Department of Public Safety for an instruction permit which shall be held for a minimum  
11 of one hundred eighty continuous days. The department may, after the applicant has successfully  
12 passed all parts of the examination other than the driving test and paid a fee which is equal in  
13 amount to the fee prescribed for a license in § 32-12-16, issue to the applicant an instruction  
14 permit. The instruction permit entitles the applicant, while having the permit in the applicant's  
15 immediate possession, to drive a motor vehicle upon the public highways for a period of one



1 year during the hours of 6 a.m. to 8 p.m. local time if accompanied by a person holding a valid  
2 operator's license who is at least eighteen years of age, has had at least one year of driving  
3 experience, and who is occupying a seat beside the applicant. The holder of an instruction  
4 permit may apply for a restricted minor's permit or operator's license after holding a valid  
5 instruction permit for one hundred eighty continuous days.

# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

292J0242

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

**HB 1122 - 01/28/2004**

Introduced by: Representatives Michels, Cutler, Deadrick (Thomas), Engels, Gillespie, Madsen, McCaulley, and O'Brien and Senators Knudson and de Hueck

1 FOR AN ACT ENTITLED, An Act to revise the procedure for registering a business name.

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

3 Section 1. That § 37-11-1 be amended to read as follows:

4 37-11-1. It is a Class 2 misdemeanor for any person ~~or copartnership~~ to engage in or conduct  
5 a business for profit in this state under any name which does not plainly show the true surname  
6 of each person interested in such business unless a statement is filed first. The statement shall  
7 be verified by each person interested in the business, showing the name, post office address, and  
8 residence address of each person interested in the business and the address where the main  
9 office of the business is to be maintained. The statement shall be electronically filed in the office  
10 ~~of the register of deeds in each county where the business is maintained~~ with the secretary of  
11 state and the filing shall be renewed every fifth year thereafter. A fee of ten dollars shall be  
12 ~~charged for paid with~~ each new filing and renewal ~~in accordance with subdivision 7-9-15(3).~~

13 Section 2. That § 37-11-2 be amended to read as follows:

14 37-11-2. A verified statement as described in § 37-11-1 shall be similarly filed ~~from time~~  
15 ~~to time~~ upon any change in ownership, operation, or persons interested in the business. A fee



1 ~~of ten dollars shall be charged for paid with~~ each filing under this section ~~in accordance with~~  
2 ~~subdivision 7-9-15(3).~~

3 Section 3. That § 37-11-3 be amended to read as follows:

4 37-11-3. The ~~register of deeds~~ secretary of state shall record the information required ~~by and~~  
5 ~~filed with him~~ pursuant to the provisions of §§ 37-11-1 and 37-11-2 in such manner as may be  
6 necessary to effectuate the purposes of this chapter.

7 Section 4. That § 37-11-2.1 be repealed.

8 ~~37-11-2.1. The register of deeds shall cause to be placed in each of the legal publications in~~  
9 ~~the county in the first January issue thereof a notice briefly setting forth the obligation provided~~  
10 ~~for in §§ 37-11-1 and 37-11-2.~~

11 Section 5. The secretary of state may expend funds from § 57A-9-527 for developing and  
12 maintaining a system for recording the information filed pursuant to this Act.

# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

770J0445

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

**HB 1125 - 01/28/2004**

Introduced by: Representatives Madsen, Cutler, Davis, Hackl, Hanson, Hargens, Hennies, Hunhoff, Juhnke, Konold, LaRue, O'Brien, Pederson (Gordon), Peterson (Jim), Rhoden, Sebert, and Teupel and Senators de Hueck, Bogue, Duenwald, Duniphan, Earley, Greenfield, Koetzle, and Vitter

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the establishment of  
2 proof of compliance with applicable standards as due care in certain utility negligence  
3 claims.

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

5 Section 1. That § 47-21-75 be amended to read as follows:

6 47-21-75. Construction of electric lines by a cooperative shall ~~as a minimum requirement,~~  
7 comply with the standards of the National Electrical Safety Code in effect at the time of ~~such~~  
8 the construction; ~~provided, however, that where Y-connected circuits with neutral conductors~~  
9 ~~effectively grounded throughout their length are used in the construction or reconstruction of~~  
10 ~~electrical distribution or transmission lines, minimum vertical clearance of wires or neutral~~  
11 ~~conductors over ground or rails shall be determined by the voltage between the wires and the~~  
12 ~~ground, if such voltage does not exceed fifteen thousand volts.~~ Proof of compliance with the  
13 requirements of the applicable National Electrical Safety Code establishes due care in the  
14 defense of a negligence claim alleging a violation of that standard.



1 Section 2. That § 31-26-5 be amended to read as follows:

2 31-26-5. The grantee under § 31-26-1 shall construct and maintain ~~said~~ the grantee's poles,  
3 wires, or underground cable and line in accordance with the applicable National Electrical  
4 Safety Code adopted by the Bureau of Standards of the United States Department of Commerce.  
5 Proof of compliance with the requirements of an applicable National Electrical Safety Code  
6 standard establishes due care in the defense of a negligence claim alleging a violation of that  
7 standard.

8 Section 3. That § 31-26-22 be amended to read as follows:

9 31-26-22. The Transportation Commission may ~~adopt~~ promulgate rules and the Department  
10 of Transportation may issue permits, to allow electrical lines, pipelines, communication lines  
11 and other utilities, including rural water service pipelines, whether above or below ground, to  
12 operate the facilities over, under, or along public grounds, streets, alleys and highways under  
13 its jurisdiction in this state. Any rule ~~adopted under~~ promulgated pursuant to this section shall  
14 set forth application and issuance of permit criteria and installation standards necessary to  
15 preserve a safe traffic environment, the appearance of the highway, and the efficiency and  
16 economy of highway maintenance and shall be ~~adopted~~ promulgated pursuant to chapter 1-26.  
17 Proof of compliance with the requirements of the applicable National Electrical Safety Code  
18 standard establishes due care in the defense of a negligence claim alleging a violation of that  
19 standard.

# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

716J0456

HOUSE TRANSPORTATION COMMITTEE  
ENGROSSED NO. **HB 1146** - 01/28/2004

Introduced by: Representatives Weems, Konold, LaRue, and Peterson (Jim) and Senators Olson (Ed), Kelly, Knudson, and Koskan

1 FOR AN ACT ENTITLED, An Act to authorize the issuance of metal plates with a special  
2 designation to a licensed vehicle dealer to enable commercial use of a vehicle under certain  
3 conditions.

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

5 Section 1. That chapter 32-6B be amended by adding thereto a NEW SECTION to read as  
6 follows:

7 The department shall issue metal numerical license plates to licensed vehicle dealers upon  
8 application and payment of the gross weight tonnage fees pursuant to § 32-9-15 at the time of  
9 annual renewal for each set desired. The license plates shall be numbered consecutively and  
10 shall bear as a prefix the number 88. If a dealer's license is revoked or canceled or the dealer  
11 goes out of business, the 88 plates shall be returned to the department. If any person operates  
12 a motor vehicle with 88 plates after the dealer license is revoked or canceled or after the dealer  
13 goes out of business, or if the person refuses to return the plates, the person is guilty of a Class  
14 2 misdemeanor.

15 Section 2. That chapter 32-6B be amended by adding thereto a NEW SECTION to read as



1 follows:

2 Any vehicle owned by a licensed new or used vehicle dealer that is being used to transport  
3 any inventory replacement vehicle bearing an 88 license plate issued pursuant to section 1 of  
4 this Act may be operated on the streets and highways of this state as a motor carrier if the  
5 provisions of section 2 of this Act are met. The dealer 88 license plate is transferable by the  
6 dealer from one vehicle owned by the dealer to another vehicle owned by the dealer. However,  
7 no dealer 88 license plate may be used on a vehicle for lease or hire, or on a wrecker or service  
8 truck.

9 Section 3. That chapter 32-9 be amended by adding thereto a NEW SECTION to read as  
10 follows:

11 Any new or used vehicle owned by a licensed vehicle dealer, bearing a dealer's 88 license  
12 plate issued pursuant to the provisions of sections 1 and 2 of this Act may operate such vehicle  
13 for the licensed dealership as a motor carrier under the following conditions:

- 14 (1) The motor vehicle shall comply with all provisions of this chapter pertaining to  
15 overweight operation;
- 16 (2) The maximum licensed gross weight may not exceed twenty-six thousand pounds;  
17 and
- 18 (3) The gross weight tonnage fees shall be paid pursuant to § 32-9-15 with the tonnage  
19 sticker affixed to the 88 plate prior to operation as a motor carrier.

20 Any violation of this section is a class 2 misdemeanor.

# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

660J0508

HOUSE AGRICULTURE AND NATURAL RESOURCES

COMMITTEE ENGROSSED NO. **HB 1161** -

01/29/2004

Introduced by: Representative Juhnke and Senator Duenwald

1 FOR AN ACT ENTITLED, An Act to prohibit certain practices associated with unarmed  
2 retrieval of small game and to establish a penalty.

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

4 Section 1. That § 41-9-8 be amended to read as follows:

5 41-9-8. Any person who knowingly enters or remains on private property for the purpose  
6 of hunting, fishing or trapping, in violation of § 41-9-1 or 41-9-2, shall ~~have his~~ lose hunting,  
7 trapping or fishing privileges ~~revoked~~ for one year following ~~such~~ the conviction. If the person  
8 is the holder of a license to hunt, trap or fish, the court shall require the license holder to  
9 surrender and deliver the license to the court to be returned to the Department of Game, Fish and  
10 Parks. For the purpose of this section, the term, "guilty", has the same meaning as the term  
11 "conviction", in § 32-12-53.

12 Unarmed retrieval of lawfully taken small game from either private land or land controlled  
13 by the Department of Game, Fish and Parks or other public lands, is not a crime or petty offense,  
14 ~~provided that such~~ if the retrieval of the small game does not involve the use of a motor vehicle.  
15 No person engaged in the unarmed retrieval of small game may attempt to drive or flush



1 additional small game animals toward hunters located on other parcels of land or rights-of-way.  
2 It is a Class 2 misdemeanor for any person, without permission of the landowner or lessee, to  
3 attempt to drive or flush additional small game animals while engaged in the unarmed retrieval  
4 of small game or to discharge a firearm at small game originating from private land where  
5 another person is engaged in the unarmed retrieval of small game.

6 This section ~~may not be construed to~~ does not limit the civil remedies available to any  
7 landowner.

# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

580J0409

## HOUSE TRANSPORTATION COMMITTEE ENGROSSED NO. **HB 1166** - 01/28/2004

Introduced by: Representatives Glenski, Craddock, Gassman, McCoy, McLaughlin,  
Murschel, Rounds, Smidt, and Van Gerpen and Senators Earley and Abdallah

1 FOR AN ACT ENTITLED, An Act to require damage disclosure statements for certain large  
2 boats.

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

4 Section 1. That chapter 32-3A be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 Upon the sale, assignment, or transfer of a large boat, or if registering a large boat in South  
7 Dakota which is titled in another state or jurisdiction, the seller, assignor, or transferor, or  
8 person wishing to register in South Dakota a large boat which is titled in another state or  
9 jurisdiction shall submit an accurately completed damage disclosure statement when applying  
10 for a certificate of title pursuant to § 32-3A-20. The completed damage disclosure statement  
11 may be on the back of the certificate of title or on a separate document that has been approved  
12 for use by the department. No certificate of title may be issued by the department unless the  
13 damage disclosure statement accompanies the application. It is a Class 1 misdemeanor to  
14 intentionally falsify any information on the damage disclosure statement. No person is liable to  
15 a subsequent owner of a large boat because a prior owner of the large boat failed to disclose that



1 the large boat had previously been damaged and repaired. This section applies to any large boat  
2 with damage in excess of five thousand dollars and is six years old or less. If the large boat has  
3 incurred damages more than once, only those damages which occurred at one time would be  
4 considered in determining whether the damages exceeded five thousand dollars.

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

7 For the purposes of the damage disclosure statement provided by section 1 of this Act, the  
8 term, damage, means damage to the large boat caused by fire, vandalism, collision, weather,  
9 submersion in water, or flood, and does not include normal wear and tear, glass damage,  
10 mechanical repairs, or electrical repairs that have not been caused by fire, vandalism, collision,  
11 weather, submersion in water, or flood.

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

14 The department shall retain each damage disclosure statement received. The statement shall  
15 become part of the title history available to the public pursuant to § 32-3A-38.

16 Section 4. That chapter 32-3A be amended by adding thereto a NEW SECTION to read as  
17 follows:

18 The department shall promulgate rules, pursuant to chapter 1-26, to prescribe the format for  
19 the damage disclosure statement provided by section 1 of this Act. An area for a damage  
20 disclosure statement shall appear on the back of each certificate of title issued by the  
21 department. The department may also approve separate documents on which a damage  
22 disclosure statement may be submitted. The damage disclosure statement form shall indicate  
23 whether the large boat has been damaged such that it cost more than five thousand dollars to  
24 repair to its predamaged condition and any other damage information the department deems

1 appropriate. If a separate document from the certificate of title contains the damage disclosure  
2 statement, the document shall also require the following information: year, make, model, and  
3 hull identification number of the large boat.

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

6 The dollar amount of damage to a large boat required to be disclosed pursuant to section 1  
7 of this Act shall include the costs necessary to return the damaged large boat to its predamaged  
8 condition. Such costs include parts, labor, paint, and hull work done on the damaged large boat.

9 Section 6. That chapter 32-3A be amended by adding thereto a NEW SECTION to read as  
10 follows:

11 Any large boat that is required to be titled pursuant to this chapter and is sold or offered for  
12 sale by a boat dealer as defined in § 32-3A-2 shall display a sticker, decal, or notice that  
13 discloses damage to the large boat in accordance with the provisions of this Act, as determined  
14 by the department in rules promulgated pursuant to chapter 1-26. The rules shall also prescribe  
15 the format and construction of the sticker, decal, or notice.

16 Section 7. That chapter 32-3A be amended by adding thereto a NEW SECTION to read as  
17 follows:

18 Each certificate of title issued by the department shall contain the following phrase: South  
19 Dakota state law requires the disclosure of damage on large boats. This information is available  
20 upon written request from the Department of Revenue and Regulation. Each certificate of title  
21 shall also contain on its front a statement as to whether previous damage disclosure statements  
22 indicate the large boat had been damaged at one time in excess of five thousand dollars.

23 Section 8. That § 32-3A-38 be amended to read as follows:

24 32-3A-38. The department may upon written request and receipt of a five dollar fee furnish

1 a person a certified abstract of the title history which shall include any damage disclosure  
2 statement of any boat registered under the provisions of this chapter. The abstract may include  
3 all documents filed with the department to establish the title history of the boat. The fee shall  
4 be deposited in the state motor vehicle fund. Governmental entities and their subdivisions are  
5 exempt from this fee requirement.

# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

381J0464

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1175** - 01/28/2004

Introduced by: Representatives Madsen, Cutler, Haverly, Michels, and O'Brien and Senators Earley, Bogue, McCracken, Olson (Ed), and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to establish the brownfields revitalization program and to  
2 provide for the continuous appropriation of certain federal funds.

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

4 Section 1. That chapter 46A-1 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 Terms used in this Act mean:

7 (1) "Brownfields revitalization program," a program to provide funding to assist in the  
8 assessment, cleanup, and redevelopment of brownfields sites;

9 (2) "Brownfields site," real property, the expansion, redevelopment, or reuse of which  
10 may be complicated by the presence or potential presence of a hazardous substance,  
11 pollutant, or contaminant;

12 (3) "Real property," residential, commercial, or industrial properties.

13 Section 2. That chapter 46A-1 be amended by adding thereto a NEW SECTION to read as  
14 follows:

15 The state brownfields revitalization program is hereby established. A brownfields revolving



1 loan subfund and a brownfields assessment and cleanup subfund are created within the water  
2 and environment fund established pursuant to § 46A-1-60. The subfunds shall be maintained  
3 separately; and all money for use in the program shall be deposited into the subfunds, including  
4 all federal brownfields revitalization program grants, all repayments of assistance awarded from  
5 the subfunds, interest on investments made on money in the subfunds, proceeds of discretionary  
6 bond issues allowed by § 46A-1-31, and principal and interest on loans made from the subfunds.  
7 Money in the subfunds may be used only for purposes authorized under federal law. The  
8 subfunds may be pledged or assigned by the district to or in trust for the holders of the bonds  
9 of the district and may be transferred to and held by a trustee or trustees pursuant to § 46A-1-39.

10 Section 3. That chapter 46A-1 be amended by adding thereto a NEW SECTION to read as  
11 follows:

12 Money from the brownfields revitalization program subfunds shall be disbursed and  
13 administered according to rules promulgated by the Board of Water and Natural Resources  
14 pursuant to chapter 1-26, § 46A-1-65, and the provisions of this Act. The provisions of §§  
15 46A-1-61 to 46A-1-69, inclusive, do not apply to the brownfields revitalization program  
16 subfunds of the water and environment fund or grants and loans from the subfunds made under  
17 the brownfields revitalization program described in sections 2 to 5 of this Act, inclusive.

18 Section 4. That chapter 46A-1 be amended by adding thereto a NEW SECTION to read as  
19 follows:

20 The Board of Water and Natural Resources shall promulgate rules pursuant to chapter 1-26  
21 to implement the provisions of this Act consistent with the requirements of federal law in order  
22 for an approved brownfields revitalization program to become eligible for grant funds from the  
23 United States Environmental Protection Agency. The rules shall include criteria and procedures  
24 for the selection of projects to receive funds from the brownfields revitalization program and

1 for the administration of the program.

2 Section 5. That chapter 46A-1 be amended by adding thereto a NEW SECTION to read as  
3 follows:

4 The brownfields revitalization program subfunds are hereby continuously appropriated to  
5 the South Dakota Board of Water and Natural Resources. Money received for these programs  
6 may be used only for purposes authorized by the federal Small Business Liability Relief and  
7 Brownfields Revitalization Act (P.L. 107-118) as amended to January 1, 2004.

8 Section 6. That chapter 46A-1 be amended by adding thereto a NEW SECTION to read as  
9 follows:

10 Any eligible entity may establish a brownfields program to prevent, assess, safely clean up,  
11 and sustainably reuse eligible brownfields sites as authorized in the Comprehensive  
12 Environmental Response, Compensation, and Liability Act of 1980, as amended to January 1,  
13 2004, and in the Small Business Liability Relief and Brownfields Revitalization Act, P.L.  
14 107-118 as amended to January 1, 2004.

15 Section 7. That chapter 46A-1 be amended by adding thereto a NEW SECTION to read as  
16 follows:

17 Any eligible entity establishing a brownfields program may exercise all powers necessary  
18 or appropriate to carry out the purposes of this Act, including the following:

19 (1) To acquire by lease, purchase, gift, condemnation, or other lawful means and hold  
20 in its corporate name or use and control as provided by law both real and personal  
21 property and easements and rights-of-way within or without the corporate limits for  
22 all purposes authorized by this Act or necessary to the exercise of any power granted  
23 in this Act;

24 (2) To convey, sell, give, dispose of, or lease both the personal and real property of the

- 1 municipality or county as provided by this Act;
- 2 (3) To exercise the power of eminent domain only as necessary to carry out its purposes  
3 and duties as provided in this Act;
- 4 (4) To borrow money and to issue certificates, warrants, general obligation bonds and  
5 non-ad valorem tax bonds for purposes of this Act;
- 6 (5) To accept funds, property, and services or other assistance, financial or otherwise,  
7 from federal, state, and other public and private sources to carry out the purposes of  
8 this Act;
- 9 (6) To contract or cooperate with any person, the state, or any political subdivision of the  
10 state, any federal agency, or any private or public entity to carry out the purposes of  
11 this Act;
- 12 (7) To plan, develop, construct, acquire, operate, clean, maintain, repair, alter, renovate,  
13 salvage, demolish, secure, abandon, consolidate, reclaim, or gather data and  
14 information concerning any brownfields site, or any related development, structure,  
15 or facility necessary to carry out the purposes of this Act; and
- 16 (8) To do and perform all acts authorized in this Act and all other acts necessary and  
17 proper for carrying out and exercising the powers granted by this Act.

# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

229J0277

HOUSE TAXATION COMMITTEE ENGROSSED NO.

**HB 1177** - 01/29/2004

Introduced by: Representatives Kraus, Haverly, Hunhoff, McCaulley, Nesselhuf, Novstrup, O'Brien, Smidt, and Van Etten and Senators Dempster, Brown, Kelly, Knudson, Olson (Ed), and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to repeal certain provisions prohibiting certain government  
2 purchases and to declare an emergency.

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

4 Section 1. That § 5-18-2.1 be repealed.

5 ~~5-18-2.1. No public corporation may purchase any goods or services from any retailer that~~  
6 ~~meets the definition of a retailer or a retailer maintaining a place of business in the state,~~  
7 ~~pursuant to subdivisions 10-46-1(8) and (9), if the retailer or any affiliate of the retailer fails or~~  
8 ~~refuses to collect and remit the sales and use tax on any sale delivered by any means to a~~  
9 ~~location within this state. The Department of Revenue shall provide a list to public corporations~~  
10 ~~of any retailer that fails to collect and remit the sales and use tax. For the purposes of this~~  
11 ~~section, the term, affiliate, is any person who directly or indirectly owns or controls, is owned~~  
12 ~~or controlled by, or is under common ownership or control with, another person. No public~~  
13 ~~corporation is liable for the breach of any duty required of the public corporation by the~~  
14 ~~provisions of this section if the breach, error, act, or omission is made in good faith. The~~



1 ~~provisions of this section do not apply to any emergency purchase made pursuant to § 5-18-3.1,~~  
2 ~~or to any purchase made pursuant to § 5-18-18.1, 5-18-18.2, or 5-18-9.4, or to any contract for~~  
3 ~~the construction of a new building or the remodeling or addition to an existing building or a~~  
4 ~~contract for any other public improvement which involves the expenditure of twenty-five~~  
5 ~~thousand dollars or more made pursuant to § 5-18-3.~~

6       Section 2. Whereas, this Act is necessary for the support of the state government and its  
7 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in  
8 full force and effect from and after its passage and approval.

# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

457J0098

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1201** - 01/28/2004

Introduced by: Representatives Williamson and Murschel and Senator Kelly

1 FOR AN ACT ENTITLED, An Act to authorize the issuance of revenue bonds to finance  
2 certain water pipelines or aqueducts.

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

4 Section 1. That § 46A-1-72 be amended to read as follows:

5 46A-1-72. Construction of a ~~West River pipeline or aqueduct from the Oahe~~ a mainstream  
6 Missouri reservoir, the Missouri River itself, or adjacent aquifers to the border with Wyoming  
7 one or more communities in South Dakota is hereby authorized for a main delivery pipeline  
8 capable of delivering ~~approximately twenty-seven thousand acre-feet of water per year with up~~  
9 ~~to approximately seven thousand acre-feet to be available for use in western South Dakota and~~  
10 ~~the balance into Wyoming~~ water sufficient to supply or supplement the needs of the  
11 communities and other private or commercial users purchasing water from the communities.

12 Section 2. That § 46A-1-73 be amended to read as follows:

13 46A-1-73. The South Dakota Conservancy District is hereby authorized to issue bonds for  
14 ~~the West River~~ a pipeline or aqueduct pursuant to section 1 of this Act in an amount not to  
15 exceed ~~three hundred fifty~~ five hundred million dollars. The district may enter into a financing



1 agreement to loan the proceeds of the bonds as authorized by law. The financing agreement shall  
2 provide for repayment of the loan through payments sufficient to pay the principal of, premium,  
3 if any, and interest on the bonds. The loan shall be secured by ~~take or pay~~ contracts for the  
4 ~~transportation of coal~~ delivery and sale of water and such additional security as is necessary for  
5 repayment and to market the bonds. The bonds ~~shall do~~ not constitute an indebtedness of the  
6 state and ~~shall do~~ not constitute nor give rise to a pecuniary or moral liability of the state or a  
7 charge against its general credit or taxing powers. No tax revenues of the state, its people, or any  
8 of its political subdivisions ~~shall may~~ be in any manner obligated to pay for any portion of the  
9 construction or financing of the ~~West River~~ pipeline or aqueduct.

10 Section 3. That § 46A-1-74 be repealed.

11 ~~46A-1-74. The South Dakota Conservancy District is hereby authorized to contract, without~~  
12 ~~using state tax revenues, for an independent market study to determine the demand for water~~  
13 ~~from the West River Aqueduct.~~