



# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

695J0125

SENATE EDUCATION COMMITTEE ENGROSSED NO.

**HB 1114** - 02/12/2004

Introduced by: Representatives Dykstra, Bartling, Christensen, Gillespie, Hackl, Olson (Mel), and Peterson (Jim) and Senators Albers, Abdallah, Kooistra, and Vitter

1 FOR AN ACT ENTITLED, An Act to revise certain provisions related to school district  
2 boundary changes.

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

4 Section 1. That § 13-6-84.1 be amended to read as follows:

5 13-6-84.1. In all proposed changes in school district boundaries, the following conditions  
6 shall prevail:

7 (1) The boundary of the area proposed to be transferred shall be coterminous at some  
8 point with the common boundary of the two school districts. Land owned by the  
9 federal, state, or local governments and unoccupied land ~~owned by a nonresident~~  
10 ~~individual or corporation~~ may be included in the request;

11 (2) Children must reside within the boundary of the area to be transferred, unless it is an  
12 area change initiated by a school board as provided in § 13-6-84.2.

13 Section 2. That § 13-6-85 be amended to read as follows:

14 13-6-85. A boundary change, affecting not more than two percent of the assessed valuation  
15 and not more than two percent of the tax-exempt acreage or other tax-exempt property to be



1 determined at the discretion of the school district from which the area is to be taken, may be  
2 made upon an application for a boundary change to the school board of the school district from  
3 which the area is to be taken and to the school board of the school district to which the area is  
4 to be annexed, in the form of a petition signed by ~~over fifty percent~~ all of the ~~voters residing~~  
5 owners of land, excluding land owned by the state or any other political subdivision in the area  
6 to be transferred by the boundary change. Copies of the petitions shall also be delivered by the  
7 petitioners to the board of county commissioners having jurisdiction over the school districts  
8 affected. Any petitioner who is aggrieved by a decision of the school board under this section  
9 may appeal that decision.

10 An appeal from the decision of the school board may be made to the circuit court in the time  
11 and manner specified by § 13-46-1 or to the secretary of the Department of Education or ~~his~~ the  
12 secretary's representative within thirty days from the date of the decision of the school board by  
13 filing a notice with the secretary of the school board and mailing a copy ~~thereof~~ of the notice to  
14 the secretary of the Department of Education. An appeal to the secretary of the Department of  
15 Education may be heard by the secretary or ~~his~~ the secretary's representative. The secretary of  
16 the Department of Education shall thereafter set a time and place for the hearing and give at  
17 least ten days' written notice of the hearing to the parties involved in the appeal, including all  
18 affected school districts. An appeal to the secretary is not a "contested case" subject to chapter  
19 1-26. An appeal from the decision of the secretary may be made pursuant to § 13-6-89. On  
20 appeal from a decision of the secretary, the appeal shall be heard and determined in the same  
21 manner as a direct appeal from the school board decision pursuant to § 13-6-89 and chapter  
22 13-46 without any presumption of the correctness of the decision of the secretary nor may the  
23 provisions of § 1-26-36 be applied to the decision of the secretary. Nothing in this section ~~shall~~  
24 ~~affect~~ affects the right of an aggrieved party to appeal from the decision of the school board to

1 the circuit court.

# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

381J0464

SENATE APPROPRIATIONS COMMITTEE  
ENGROSSED NO. **HB 1175** - 02/13/2004

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 and economic  
2 development program and to provide for the continuous appropriation of certain federal  
3 funds.

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

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

7 Terms used in this Act mean:

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

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

14 (3) "Petroleum," petroleum substances, oil, gasoline, kerosene, fuel oil, oil sludge, oil  
15 refuse, oil mixed with other wastes, crude oils, substances, or additives to be utilized



1 in the refining or blending of crude petroleum or petroleum stock, and any other oil  
2 or petroleum substance;

3 (4) "Petroleum contaminated site," a site contaminated by petroleum; and

4 (5) "Real property," residential, commercial, or industrial properties.

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

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

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

20 Money from the brownfields revitalization and economic development program subfunds  
21 shall be disbursed and administered according to rules promulgated by the Board of Water and  
22 Natural Resources pursuant to chapter 1-26, § 46A-1-65, and the provisions of this Act. The  
23 provisions of §§ 46A-1-61 to 46A-1-69, inclusive, do not apply to the brownfields  
24 revitalization and economic development program subfunds of the water and environment fund

1 or grants and loans from the subfunds made under the brownfields revitalization and economic  
2 development program described in sections 2 to 5 of this Act, inclusive.

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

5 The Board of Water and Natural Resources shall promulgate rules pursuant to chapter 1-26  
6 to implement the provisions of this Act consistent with the requirements of federal law in order  
7 for an approved brownfields revitalization and economic development program to become  
8 eligible for grant funds from the United States Environmental Protection Agency. The rules  
9 shall include criteria and procedures for the selection of projects to receive funds from the  
10 brownfields revitalization and economic development program and for the administration of  
11 the program including the terms of settlement for program participants pursuant to § 34A-10-17.

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

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

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

21 Any eligible entity may establish a brownfields program to prevent, assess, safely clean up,  
22 promote the economic development of, and sustainably reuse eligible brownfields sites as  
23 authorized in the Comprehensive Environmental Response, Compensation, and Liability Act  
24 of 1980, as amended to January 1, 2004, and in the Small Business Liability Relief and

1 Brownfields Revitalization Act, P.L. 107-118 as amended to January 1, 2004.

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

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

- 6 (1) To acquire by lease, purchase, gift, or other lawful means and hold in its corporate  
7 name or use and control as provided by law both real and personal property and  
8 easements and rights-of-way within or without the corporate limits for all purposes  
9 authorized by this Act or necessary to the exercise of any power granted in this Act;
- 10 (2) To convey, sell, give, dispose of, or lease both the personal and real property of the  
11 municipality or county as provided by this Act;
- 12 (3) To borrow money and to issue certificates, warrants, general obligation bonds and  
13 non-ad valorem tax bonds for purposes of this Act;
- 14 (4) To accept funds, property, and services or other assistance, financial or otherwise,  
15 from federal, state, and other public and private sources to carry out the purposes of  
16 this Act;
- 17 (5) To contract or cooperate with any person, the state, or any political subdivision of the  
18 state, any federal agency, or any private or public entity to carry out the purposes of  
19 this Act;
- 20 (6) To plan, develop, construct, acquire, operate, clean, maintain, repair, alter, renovate,  
21 salvage, demolish, secure, abandon, consolidate, reclaim, or gather data and  
22 information concerning any brownfields site, or any related development, structure,  
23 or facility necessary to carry out the purposes of this Act;
- 24 (7) To apply for available grant funds and other governmental and nongovernmental

1 financing options to promote the cleanup, reuse, revitalization, and economic  
2 development of the property consistent with the purposes of this Act; and  
3 (8) To do and perform all acts authorized in this Act and all other acts necessary and  
4 proper for carrying out and exercising the powers granted by this Act.

# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

400J0231

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **SB 7** - 02/18/2004

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

Introduced by: The Committee on State Affairs at the request of the Department of Military and Veterans Affairs

1 FOR AN ACT ENTITLED, An Act to revise the tuition privileges available to members of the  
2 national guard at state universities.

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

4 Section 1. That § 33-6-5 be amended to read as follows:

5 33-6-5. Any member of the National Guard of the State of South Dakota ~~who is a resident~~  
6 ~~of the State of South Dakota shall~~ is, upon compliance with all the requirements for admission;  
7 and subject to the provisions of § 33-6-7, ~~be~~ entitled to a benefit as prescribed by this Act to  
8 attend and pursue any undergraduate course or courses in any state educational institution under  
9 the control and management of the Board of Regents ~~upon the payment of only fifty percent of~~  
10 ~~the charges for tuition. In no event shall eligible national guardsmen be entitled to more than~~  
11 ~~four academic years under §§ 33-6-5 to 33-6-8, inclusive. The Board of Regents shall maintain~~  
12 ~~an annual record of the number of participants and the tuition dollar value of such participation.~~  
13 Any resident is entitled to a benefit of fifty percent of the in-state resident tuition to be paid or  
14 otherwise credited by the Board of Regents. Any nonresident is entitled to a benefit of fifty



1 percent of the in-state resident tuition to be paid to the institution by the Department of Military  
2 and Veterans Affairs. The benefits established under §§ 33-6-5 to 33-6-8, inclusive, and the  
3 provisions of this Act may not exceed one hundred twenty-eight credit hours towards a  
4 baccalaureate degree.

5 Section 2. That chapter 33-6 be amended by adding thereto a NEW SECTION to read as  
6 follows:

7 Notwithstanding the provisions of § 13-55-23, eligible national guard members enrolled in  
8 courses under the control and management of the Board of Regents not subsidized by the  
9 general fund are entitled to a benefit of fifty percent of the in-state resident tuition to be paid to  
10 the institution by the Department of Military and Veterans Affairs.

# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

400J0264

SENATE APPROPRIATIONS COMMITTEE

ENGROSSED NO. **SB 11** - 02/10/2004

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

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

1 FOR AN ACT ENTITLED, An Act to rename the regents scholarship program the South  
2 Dakota scholarship program and revise the annual scholarship amount.

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

4 Section 1. That § 13-55-30 be amended to read as follows:

5 13-55-30. There is established the ~~regents~~ South Dakota scholarship program to be  
6 administered by the Board of Regents. The purpose of the program is to allow South Dakota's  
7 most academically accomplished high school graduates to receive an affordable education at any  
8 university, college, or technical school that is accredited by the North Central Association of  
9 Colleges and Schools and that provides instruction from a campus located in South Dakota.

10 Section 2. The term, regents scholarship program, wherever it is used in chapter 13-55  
11 means South Dakota scholarship program. The Code Commission in future supplements and  
12 revisions of chapter 13-55 of the South Dakota Codified Laws, shall substitute the term, South  
13 Dakota scholarship program, and its derivatives for the term, regents scholarship program, and  
14 its derivatives.

15 Section 3. That § 13-55-33 be amended to read as follows:



1        13-55-33. One-half of the annual scholarship award shall be paid to public institutions on  
2        behalf of eligible students there enrolled or directly to eligible students enrolled at nonpublic  
3        institutions at the beginning of the fall semester and the other half shall be paid at the beginning  
4        of the spring semester. The amount of the annual award shall be as follows:

- 5        (1)    One thousand dollars for the first year of attendance;
- 6        (2)    One thousand dollars for the second year of attendance;
- 7        (3)    One thousand ~~five hundred~~ dollars for the third year of attendance;
- 8        (4)    ~~Two~~ One thousand ~~five hundred~~ dollars for the fourth year of attendance.

9        If, in any year, the total funds available to finance the scholarship awards are insufficient to  
10       permit each eligible recipient to receive the full amount provided in this section, the available  
11       moneys shall be prorated and distributed to each recipient in proportion to the entitlement  
12       contemplated by this section. The total amount of the scholarship may not exceed ~~six~~ four  
13       thousand dollars.

# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

400J0236

SENATE APPROPRIATIONS COMMITTEE

ENGROSSED NO. **SB 48** - 02/10/2004

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

1 FOR AN ACT ENTITLED, An Act to revise the per student allocation for each disability level  
2 for the purposes of calculating the payment of state aid to special education.

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

4 Section 1. That § 13-37-35.1 be amended to read as follows:

5 13-37-35.1. Terms used in chapter 13-37 mean:

6 (1) "Level one disability," a mild disability;

7 (2) "Level two disability," a mental retardation or emotional disorder;

8 (3) "Level three disability," hearing impairment, deafness, visual impairment,  
9 deaf-blindness, orthopedic impairment, or traumatic brain injury;

10 (4) "Level four disability," autism;

11 (5) "Level five disability," multiple disabilities;

12 (5A) "Level six disability," prolonged assistance;

13 (6) "Index factor," is the annual percentage change in the consumer price index for urban  
14 wage earners and clerical workers as computed by the Bureau of Labor Statistics of  
15 the United States Department of Labor for the year before the year immediately



- 1 preceding the year of adjustment or three percent, whichever is less;
- 2 (7) "Local effort," is the amount of taxes payable each year, using a levy for the special  
3 education fund of a school district of one dollar and thirty cents per thousand dollars  
4 of taxable valuation;
- 5 (8) "Allocation for a student with a level one disability," for the school fiscal year  
6 beginning July 1, ~~1999~~ 2004, is ~~\$3,504~~ \$3,533.13. For each school year thereafter,  
7 the allocation for a student with a level one disability shall be the previous fiscal  
8 year's allocation for such child increased by the lesser of the index factor or three  
9 percent;
- 10 (9) "Allocation for a student with a level two disability," for the school fiscal year  
11 beginning July 1, ~~1999~~ 2004, is ~~\$7,914~~ \$8,277.21. For each school year thereafter,  
12 the allocation for a student with a level two disability shall be the previous fiscal  
13 year's allocation for such child increased by the lesser of the index factor or three  
14 percent;
- 15 (10) "Allocation for a student with a level three disability," for the school fiscal year  
16 beginning July 1, ~~1999~~ 2004, is ~~\$10,116~~ \$12,580.73. For each school year thereafter,  
17 the allocation for a student with a level three disability shall be the previous fiscal  
18 year's allocation for such child increased by the lesser of the index factor or three  
19 percent;
- 20 (11) "Allocation for a student with a level four disability," for the school fiscal year  
21 beginning July 1, ~~1999~~ 2004, is ~~\$14,705~~ \$12,001.80. For each school year thereafter,  
22 the allocation for a student with a level four disability shall be the previous fiscal  
23 year's allocation for such child increased by the lesser of the index factor or three  
24 percent;

1 (12) "Allocation for a student with a level five disability," for the school fiscal year  
2 beginning July 1, ~~1999~~ 2004, is ~~\$15,808~~ \$15,882.21. For each school year thereafter,  
3 the allocation for a student with a level five disability shall be the previous fiscal  
4 year's allocation for such child increased by the lesser of the index factor or three  
5 percent;

6 (12A) "Allocation for a student with a level six disability," for the school fiscal year  
7 beginning July ~~2001~~ 2004, is ~~\$1,608~~ \$8,122.23. For each school year thereafter, the  
8 allocation for a student with a level six disability shall be the previous fiscal year's  
9 allocation for such child increased by the lesser of the index factor or three percent;

10 (13) "Child count," is the number of students in need of special education or special  
11 education and related services according to criteria set forth in rules promulgated  
12 pursuant to §§ 13-37-1.1 and 13-37-46 submitted to the Department of Education in  
13 accordance with rules promulgated pursuant to § 13-37-1.1;

14 (14) "Average daily membership," the average number of kindergarten through twelfth  
15 grade pupils enrolled in all schools operated by the school district during the previous  
16 regular school year plus the average number of pupils for whom the district pays  
17 tuition;

18 (15) "Nonpublic school," a sectarian organization or entity which is accredited by the  
19 secretary of education for the purpose of instructing children of compulsory school  
20 age. This definition excludes any school that receives a majority of its revenues from  
21 public funds;

22 (16) "Nonpublic average daily membership," the average number of children under age  
23 sixteen who are approved for alternative instruction pursuant to § 13-27-2 during the  
24 previous school year plus:

- 1 (a) For nonpublic schools located within the boundaries of a public school district
- 2 with an average daily membership of six hundred or more during the previous
- 3 school year, the average number of kindergarten through twelfth grade pupils
- 4 enrolled during the previous regular school year in all nonpublic schools
- 5 located within the boundaries of the public school district;
- 6 (b) For nonpublic schools located within the boundaries of a public school district
- 7 with an average daily membership of less than six hundred during the previous
- 8 school year, the average number of resident kindergarten through twelfth grade
- 9 pupils enrolled during the previous school year in all nonpublic schools
- 10 located within the State of South Dakota;
- 11 (17) "Special education average daily membership," average daily membership plus
- 12 nonpublic average daily membership;
- 13 (18) "Local need," an amount to be determined as follows:
- 14 (a) Multiply the special education average daily membership by ~~0.089~~ 0.1013 and
- 15 multiply the result by the allocation for a student with a level one disability;
- 16 (b) Multiply the number of students having a level two disability as reported on
- 17 the child count for the previous school fiscal year by the allocation for a
- 18 student with a level two disability;
- 19 (c) Multiply the number of students having a level three disability as reported on
- 20 the child count for the previous school fiscal year by the allocation for a
- 21 student with a level three disability;
- 22 (d) Multiply the number of students having a level four disability as reported on
- 23 the child count for the previous school fiscal year by the allocation for a
- 24 student with a level four disability;

1 (e) Multiply the number of students having a level five disability as reported on  
2 the child count for the previous school fiscal year by the allocation for a  
3 student with a level five disability;

4 (f) Multiply the number of students having a level six disability as reported on the  
5 child count for the previous school fiscal year by the allocation for a student  
6 with a level six disability;

7 (g) Sum the results of (a) through (f);

8 (19) "Effort factor," the school district's special education tax levy in dollars per thousand  
9 divided by \$1.30. The maximum effort factor is 1.0.

# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

400J0261

## HOUSE HEALTH AND HUMAN SERVICES COMMITTEE ENGROSSED NO. **SB 54** - 02/18/2004

Introduced by: The Committee on Health and Human Services at the request of the  
Department of Health

1 FOR AN ACT ENTITLED, An Act to provide for the inclusion of certain information on  
2 required abortion reports and to clarify the confidential nature of the information.

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

4 Section 1. That § 34-23A-34 be amended to read as follows:

5 34-23A-34. ~~No later than October 1, 1998, the~~ The Department of Health shall prepare a  
6 reporting form for physicians which shall provide for the collection of the following  
7 information:

- 8 (1) ~~The number of induced abortions performed in the previous calendar year, broken~~  
9 ~~down by month, day, and year of the induced abortion;~~
- 10 (2) The method of abortion used for each induced abortion;
- 11 (3) The approximate gestational age, in weeks, of the unborn child involved in the  
12 abortion;
- 13 (4) The age of the mother at the time of the abortion and, if the mother was younger than  
14 sixteen years of age at the time the child was conceived, the age of the father, if  
15 known;



- 1 (5) The specific reason for the induced abortion, including the following:
  - 2 (a) The pregnancy was a result of rape;
  - 3 (b) The pregnancy was a result of incest;
  - 4 (c) The mother could not afford the child;
  - 5 (d) The mother did not desire to have the child;
  - 6 (e) The mother's emotional health was at risk;
  - 7 (f) The mother would suffer substantial and irreversible impairment of a major
  - 8 bodily function if the pregnancy continued;
  - 9 (g) Other, which shall be specified;
- 10 (6) Whether the induced abortion was paid for by:
  - 11 (a) Private insurance;
  - 12 (b) Public health plan;
  - 13 (c) Other, which shall be specified;
- 14 (7) Whether coverage was under:
  - 15 (a) A-fee-for-service insurance company;
  - 16 (b) A managed care company; or
  - 17 (c) Other, which shall be specified;
- 18 (8) A description of the complications, if any, for each abortion and for the aftermath of
- 19 each abortion;
- 20 (9) The fee collected for performing or treating the abortion;
- 21 (10) The type of anesthetic, if any, used for each induced abortion;
- 22 (11) The method used to dispose of fetal tissue and remains;
- 23 (12) ~~Speciality~~ The specialty area of the physician;
- 24 (13) Whether the physician performing the induced abortion has been subject to license

- 1 revocation or suspension or other professional sanction; ~~and~~
- 2 (14) The number of previous abortions the mother has had;
- 3 (15) The number of previous live births of the mother, including both living and deceased;
- 4 (16) The date last normal menses began for the mother;
- 5 (17) The name of physician performing the induced abortion;
- 6 (18) The name of hospital or physician office where the induced abortion was performed;
- 7 (19) A unique patient number that can be used to link the report to medical report for
- 8 inspection, clarification, and correction purposes but that cannot, of itself, reasonably
- 9 lead to the identification of any person obtaining an abortion; and
- 10 (20) Certain demographic information including:
- 11 (a) State, county, and city of occurrence of abortion;
- 12 (b) State, county, and city of residence of mother;
- 13 (c) Marital status of mother;
- 14 (d) Education status of mother;
- 15 (e) Race and hispanic origin of mother; and
- 16 (21) Certain Rhesus factor (Rh) information including:
- 17 (a) Whether the mother received the Rh test;
- 18 (b) Whether the mother tested positive for the Rh-negative factor;
- 19 (c) Whether the mother received a Rho(D) immune globulin injection.

20 Section 2. That § 34-23A-35 be amended to read as follows:

21 34-23A-35. ~~Any physician performing or treating abortions shall obtain a reporting form~~

22 ~~from the department and shall complete and submit the reporting form to the department no later~~

23 ~~than January fifteenth for any abortion performed or treated during the previous calendar year.~~

24 By January fifteenth of each year, each physician who performed or treated an induced abortion

1 during the previous calendar year or the physician's agent, shall submit to the department a copy  
2 of the physicians' information report described in § 34-23A-34 with the requested data entered  
3 accurately and completely.

4 Section 3. That § 34-23A-37 be amended to read as follows:

5 34-23A-37. ~~No later than October 1, 1998, the~~ The Department of Health shall prepare a  
6 reporting form for physicians which shall provide for the collection of the following  
7 information:

8 (1) The number of females to whom the physician provided the information described  
9 in subdivision 34-23A-10.1(1); of that number, the number provided by telephone  
10 and the number provided in person; and of each of those numbers, the number  
11 provided in the capacity of a referring physician and the number provided in the  
12 capacity of a physician who is to perform the abortion;

13 (2) The number of females to whom the physician provided the information described  
14 in subdivision 34-23A-10.1(2); of that number, the number provided by telephone  
15 and the number provided in person; of each of those numbers, the number provided  
16 in the capacity of a referring physician and the number provided in the capacity of a  
17 physician who is to perform the abortion; and of each of those numbers, the number  
18 provided by the physician and the number provided by an agent of the physician;

19 (3) The number of females who availed themselves of the opportunity to obtain a copy  
20 of the printed information described in § 34-23A-10.3, and the number who did not;  
21 and of each of those numbers, the number who, to the best of the reporting  
22 physician's information and belief, went on to obtain the abortion; and

23 (4) The number of abortions performed by the physician in which information otherwise  
24 required to be provided at least twenty-four hours before the abortion was not

1 provided because an immediate abortion was necessary to avert the female's death,  
2 and the number of abortions in which such information was not so provided because  
3 a delay would create serious risk of substantial and irreversible impairment of a  
4 major bodily function;

5 (5) The name of hospital or physician office;

6 (6) The date of report by month, day, and year; and

7 (7) A unique patient number that can be used to link the report to medical report for  
8 inspection, clarification, and correction purposes but that cannot, of itself, reasonably  
9 lead to the identification of any person obtaining an abortion.

10 Section 4. That § 34-23A-39 be amended to read as follows:

11 34-23A-39. ~~No later than October 1, 1998, the~~ The Department of Health shall prepare a  
12 reporting form for physicians which shall provide for the collection of the following  
13 information:

14 (1) The number of females or parents whom the physician or agent of the physician  
15 provided the notice described in § 34-23A-7; and of each of those numbers, the  
16 number of females who, to the best of the reporting physician's information and  
17 belief, went on to obtain the abortion;

18 (2) The number of females upon whom the physician performed an abortion without  
19 providing to the parent of the minor the notice described in § 34-23A-7; of that  
20 number, the number who were emancipated minors, and the numbers from whom  
21 each of the exceptions to § 34-23A-7 were applicable;

22 (3) The number of abortions performed upon a female by the physician after receiving  
23 judicial authorization to do so without parental notice; ~~and~~

24 (4) The same information described in subdivisions (1) through (3) of this section with

1 respect to females for whom a guardian or conservator has been appointed pursuant  
2 to statutes on guardianship or conservatorship because of finding of incompetency;

3 (5) The name of hospital or physician office;

4 (6) The date of report by month, day, and year; and

5 (7) A unique patient number that can be used to link the report to medical report for  
6 inspection, clarification, and correction purposes but that cannot, of itself, reasonably  
7 lead to the identification of any person obtaining an abortion.

8 Section 5. That § 34-23A-44 be amended to read as follows:

9 34-23A-44. No report made under §§ 34-23A-34 to 34-23A-45, inclusive, may include the  
10 name of any female having an abortion. The Department of Health shall take care to ensure that  
11 none of the information included in any report required by §§ 34-23A-34 to 34-23A-45,  
12 inclusive, including printed records, computerized records, or stored information of any type,  
13 can reasonably lead to the identification of any person obtaining an abortion. Any information  
14 collected by or under the direction of a physician or psychotherapist for the purpose of  
15 completing a report required by §§ 34-23A-34 to 34-23A-45, inclusive, is privileged as a  
16 confidential communication under § 19-13-7.

# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

673J0491

SENATE APPROPRIATIONS COMMITTEE

ENGROSSED NO. **SB 91** - 02/02/2004

Introduced by: Senators Duniphan, Albers, Apa, Bogue, Brown, de Hueck, Dempster, Dennert, Diedrich (Larry), Duenwald, Duxbury, Earley, Ham-Burr, Kelly, Kleven, Kloucek, Knudson, Koetzle, Koskan, LaPointe, McCracken, Moore, Napoli, Olson (Ed), Reedy, Schoenbeck, Sutton (Dan), Sutton (Duane), and Vitter and Representatives Adelstein, Bartling, Bradford, Buckingham, Burg, Christensen, Craddock, Cutler, Dykstra, Elliott, Frost, Fryslie, Garnos, Gassman, Gillespie, Hanson, Hargens, Haverly, Heineman, Hennies, Hundstad, Hunhoff, Juhnke, Klaudt, Konold, Kraus, Lange, LaRue, Lintz, Madsen, McCoy, McLaughlin, Michels, Murschel, Novstrup, Olson (Ryan), Pederson (Gordon), Peterson (Bill), Peterson (Jim), Putnam, Rave, Rhoden, Rounds, Schafer, Sebert, Sigdestad, Smidt, Solum, Teupel, Valandra, Van Etten, Van Gerpen, Van Norman, Weems, Wick, and Williamson

1 FOR AN ACT ENTITLED, An Act to appropriate money to the Ellsworth Air Force Base task  
2 force to promote and facilitate the retention of Ellsworth Air Force Base.

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

4 Section 1. There is hereby appropriated from the general fund the sum of three hundred fifty  
5 thousand dollars (\$350,000), or so much thereof as may be necessary, to the Department of  
6 Military and Veterans' Affairs for a grant to the Ellsworth Air Force Base Task Force to promote  
7 and facilitate the retention and possible expansion of Ellsworth Air Force Base. The task force  
8 shall report to the Executive Board of the Legislative Research Council every six months  
9 beginning on or about November 1, 2004.

10 Section 2. The adjutant general shall approve vouchers and the state auditor shall draw



1 warrants to pay expenditures authorized by this Act.

2 Section 3. Any amounts appropriated in this Act not lawfully expended or obligated by

3 June 30, 2005, shall revert in accordance with § 4-8-21.

# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

456J0185

HOUSE TAXATION COMMITTEE ENGROSSED NO.

**SB 123** - 02/19/2004

Introduced by: Senators de Hueck, Brown, Kooistra, and Symens and Representatives Pederson (Gordon), Bartling, Frost, Hennies, Konold, and Rounds

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the county wheel tax.

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

3 Section 1. That § 32-5A-6 be repealed.

4 ~~— 32-5A-6. If a county imposes a wheel tax pursuant to § 32-5A-1 in excess of two dollars per~~  
5 ~~wheel, all of the revenue from the tax that is in excess of two dollars per wheel shall be used to~~  
6 ~~replace property taxes the county imposes for highway purposes.~~

7 Section 2. If a county imposes a wheel tax pursuant to § 32-5A-1 in excess of two dollars  
8 per wheel, the ordinance shall be published within ten days of the decision by the board of  
9 county commissioners. Notwithstanding the provisions of § 7-18A-5, publication shall be made  
10 at least twice in the legal newspapers designated by the board pursuant to § 7-18-3, with no  
11 fewer than five days between publication dates, before the increase takes effect. The  
12 announcement shall consist of a reproduction of the ordinance and a statement of the right to  
13 refer the decision of the board to a vote of the people as provided in chapter 7-18A.



# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

574J0759

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **SB 164** - 02/02/2004

Introduced by: Senators Symens and Bogue and Representatives Peterson (Bill) and Olson  
(Mel)

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to the county zoning  
2 laws.

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

4 Section 1. That § 11-2-49 be amended to read as follows:

5 11-2-49. Except as otherwise provided by § 11-2-60, the board shall provide for the  
6 appointment of a board of adjustment, or for the planning and zoning commission to act as a  
7 board of adjustment, and in the regulations and restrictions adopted pursuant to the authority of  
8 this chapter, shall provide that the board of adjustment may ~~approve administrative actions,~~  
9 ~~remedies, and procedures as authorized by § 11-2-53, in appropriate cases and subject to~~  
10 appropriate conditions and safeguards, grant variances to the terms of the ordinance.

11 Section 2. That § 11-2-53 be amended to read as follows:

12 11-2-53. The board of adjustment may:

13 (1) Hear and decide appeals if it is alleged there is error in any order, requirement,  
14 decision, or determination made by an administrative official in the enforcement of  
15 this chapter or of any ordinance adopted pursuant to this chapter; and



- 1       (2)    Authorize upon appeal in specific cases such variance from terms of the ordinance
- 2            as will not be contrary to the public interest, if, owing to special conditions, a literal
- 3            enforcement of the provisions of the ordinance will result in unnecessary hardship
- 4            and so that the spirit of the ordinance is observed and substantial justice done; ~~and~~
- 5    ~~(3)    Approve certain conditional uses upon a showing by an applicant that standards and~~
- 6            ~~criteria stated in a relevant ordinance enacted pursuant to § 11-2-17.2 will be met.~~

7        Section 3. That § 11-2-58 be amended to read as follows:

8        11-2-58. In exercising the powers mentioned in § 11-2-53, ~~all decisions of the board of~~

9        ~~adjustment to grant variances or conditional uses or in hearing appeals from any administrative~~

10       ~~order, requirement, decision, or determination may be appealed to the board of county~~

11       ~~commissioners in accordance with the county ordinance, and any final decision of the board of~~

12       ~~adjustment or county commission shall be deemed a final administrative decision not subject~~

13       ~~to referendum or review. However, any aggrieved person or legal entity has the right to appeal~~

14       ~~as allowed in § 11-2-61~~ the board of adjustment may, in conformity with the provisions of this

15       chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or

16       determination appealed from and may make such order, requirement, decision, or determination

17       as ought to be made, and to that end has all the powers of the officer from whom the appeal is

18       taken.

19       Section 4. That § 11-2-59 be amended to read as follows:

20       11-2-59. The concurring vote of two-thirds of the members of the board of adjustment is

21       necessary to reverse any order, requirement, decision, or determination of any such

22       administrative official, or to decide in favor of the applicant on any matter upon which it is

23       required to pass under any such ordinance, or to effect any variation ~~or conditional use~~ in the

24       ordinance.

1 Section 5. That § 11-2-60 be amended to read as follows:

2 11-2-60. In lieu of appointing the board of adjustment provided by § 11-2-49, the board of  
3 county commissioners having adopted and in effect a zoning ordinance may act as and perform  
4 all the duties and exercise the powers of the board of adjustment. The chair of the board of  
5 county commissioners is chair of the board of adjustment as so composed. The concurring vote  
6 of at least two-thirds of the members of the board as so composed is necessary to reverse any  
7 order, requirement, decision, or determination of any administrative official, or to decide in  
8 favor of the appellant on any matter upon which it is required to pass under any zoning  
9 ordinance, or to effect any variation ~~or conditional use~~ in the ordinance.

10 Section 6. That § 11-2-61 be amended to read as follows:

11 11-2-61. Any person or ~~legal entity aggrieved by a decision of the board of adjustment or~~  
12 ~~board of county commissioners~~ persons, jointly or severally, aggrieved by any decision of the  
13 board of adjustment, or any taxpayer, or any officer, department, board, or bureau of the county,  
14 may present to a court of record a petition duly verified, setting forth that the decision is illegal,  
15 in whole or in part, specifying the grounds of the illegality. The petition shall be presented to  
16 the court within thirty days after the filing of the decision in the office of the board of  
17 adjustment ~~or the office of the board of county commissioners.~~

18 Section 7. That § 11-2-67 be repealed.

19 ~~11-2-67. Any permit, issued pursuant to this chapter, for a dairy or other animal feeding~~  
20 ~~operation in compliance with such standards and criteria, including any permit for future~~  
21 ~~expansion, shall be a vested compensable property right under the laws of South Dakota, but~~  
22 ~~may be revoked for good cause.~~

23 Section 8. That § 11-2-17.2 be repealed.

24 ~~11-2-17.2. Any board of county commissioners may, by ordinance, referable pursuant to~~

1 ~~chapter 7-18A, adopt, amend, and repeal as many classifications of conditional uses as may be~~  
2 ~~proper and necessary to regulate land development activities. Each ordinance providing for such~~  
3 ~~conditional use shall establish standards and criteria sufficient to enable the board of adjustment~~  
4 ~~to approve or disapprove proposed land development projects and to issue or deny appropriate~~  
5 ~~permits pursuant to §§ 11-2-53 and 11-2-58 to 11-2-60, inclusive. Such standards and criteria~~  
6 ~~shall include both general requirements for all conditional uses and, insofar as practicable,~~  
7 ~~requirements specific to each designated conditional use.~~

# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

753J0756

## SENATE ENGROSSED NO. **SB 169** - 02/17/2004

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

Introduced by: Senators Bogue, Apa, Brown, Duniphan, Jaspers, Kleven, Koskan, LaPointe, McCracken, Napoli, and Olson (Ed) and Representatives Rave, Dykstra, Hackl, Juhnke, Klaudt, LaRue, Lintz, Peterson (Bill), Rhoden, and Teupel

1 FOR AN ACT ENTITLED, An Act to provide a sparsity factor when distributing certain school  
2 district revenue.

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

4 Section 1. That § 13-13-10.1 be amended to read as follows:

5 13-13-10.1. Terms used in this chapter mean:

- 6 (1) "Average daily membership," the average number of resident and nonresident  
7 kindergarten through twelfth grade pupils enrolled in all schools operated by the  
8 school district during the previous regular school year, minus average number of  
9 pupils for whom the district receives tuition, except pupils described in subdivision  
10 (1A) and pupils for whom tuition is being paid pursuant to § 13-28-42 and plus the  
11 average number of pupils for whom the district pays tuition;
- 12 (1A) Nonresident students who are in the care and custody of the Department of Social  
13 Services, the Unified Judicial System, the Department of Corrections, or other state  
14 agencies and are attending a public school may be included in the average daily



1 membership of the receiving district when enrolled in the receiving district. When  
2 counting a student who meets these criteria in its general enrollment average daily  
3 membership, the receiving district may begin the enrollment on the first day of  
4 attendance. The district of residence prior to the custodial transfer may not include  
5 students who meet these criteria in its general enrollment average daily membership  
6 after the student ceases to attend school in the resident district;

7 (2) "Adjusted average daily membership," calculated as follows:

8 (a) For districts with an average daily membership of two hundred or less,  
9 multiply 1.2 times the average daily membership;

10 (b) For districts with an average daily membership of less than six hundred, but  
11 greater than two hundred, raise the average daily membership to the 0.8293  
12 power and multiply the result times 2.98;

13 (c) For districts with an average daily membership of six hundred or more,  
14 multiply 1.0 times their average daily membership;

15 (2A) "Sparse school district," a school district which: levies ad valorem taxes at the  
16 maximum rates allowed pursuant to § 10-12-42; has an average daily membership  
17 of less than six hundred; has a geographical area of more than five hundred square  
18 miles; and has an average daily membership per square mile of 0.5 or less;

19 (2B) "Sparsity average daily membership," calculated as follows:

20 (a) For sparse school districts, divide the average daily membership by the area  
21 of the school district in square miles;

22 (b) If the result of subsection (a) of this subdivision is 0.50 or less, multiply the  
23 quotient obtained in subsection (a) times negative 0.25;

24 (c) Add 0.125 to the result of subsection (b) of this subdivision; and



1 (10) "Allowable general fund balance," the fund base percentage multiplied by the  
2 district's general fund expenditures in the previous school fiscal year;

3 (11) "Imputed interest rate," the average prime rate for the preceding fiscal year minus 2.5  
4 percentage points;

5 (12) "General fund exclusions," revenue a school district has received from the imposition  
6 of the excess tax levy pursuant to § 10-12-43; revenue a school district has received  
7 from gifts, contributions, grants, or donations; revenue a school district has received  
8 under the provisions of §§ 13-6-92 to 13-6-96, inclusive; and any revenue in the  
9 general fund set aside for a noninsurable judgment.

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

12 Notwithstanding the provisions of § 13-13-10.1, the adjusted average daily membership of  
13 a sparse school district with an average daily membership of more than fifty and less than one  
14 hundred thirty is one hundred fifty-six.

# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

508J0114

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

**SB 185** - 02/18/2004

Introduced by: Senators Schoenbeck, Brown, de Hueck, and Vitter and Representatives  
O'Brien, Cutler, Deadrick (Thomas), McCaulley, and Michels

1 FOR AN ACT ENTITLED, An Act to authorize counties to employ attorneys with specialized  
2 expertise and to validate prior actions in that regard.

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

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

6 Notwithstanding any other provision of this chapter, a board of county commissioners may,  
7 if authorized by resolution duly entered upon its minutes, employ an attorney admitted or  
8 licensed in the state for legal services in any civil matter in which specialized expertise is  
9 required. The attorney may act only in those matters specifically delegated by the board of  
10 county commissioners in writing at the time of appointment. The board of county  
11 commissioners shall, by resolution duly entered upon its minutes, set the salary for the attorney  
12 employed pursuant to this section. The employment of an attorney pursuant to this section may  
13 not reduce the salary of the state's attorney or any duly appointed deputy.

14 Section 2. The board of county commissioners may, if authorized by resolution duly entered  
15 upon its minutes, employ its own state's attorney for legal services as described in section 1 of



1 this Act. Notwithstanding § 7-16-23, the state's attorney may be compensated pursuant to the  
2 resolution described in section 1 of this Act in addition to the compensation of the state's  
3 attorney for the performance of other public duties.

4 Section 3. That § 7-16-23 be amended to read as follows:

5 7-16-23. Other than fees for child support enforcement services made upon the request of  
6 the Department of Social Services to a state's attorney under a cooperative agreement with the  
7 board of county commissioners, fees payable upon request of the Department of Social Services  
8 under a cooperative agreement with the board of county commissioners under the Violence  
9 Against Women Act, 42 USC 3796gg et seq. as of January 1, 1997, ~~and~~ fees payable under  
10 contract for representation of the county or its officers in civil cases and administrative  
11 proceedings outside the county pursuant to § 7-16-6, and fees payable under contract for  
12 specialized legal services pursuant to section 1 of this Act, a board of county commissioners  
13 may not give or pay any fees or costs to a state's attorney as part of a salary or in addition to a  
14 salary. However, each board shall participate in the costs of the prosecution and enforcement  
15 by the state's attorney of support obligations against any responsible parent, whether of a civil  
16 or criminal nature, on a fee for service basis with the Department of Social Services. The fee  
17 is paid to the state's attorney in addition to any other compensation of the state's attorney for the  
18 performance of other public duties. A full-time state's attorney, as defined by § 7-16-19, is not  
19 entitled to receive the fees payable for child support enforcement services or services under the  
20 Violence Against Women Act authorized by this section, or fees payable under contract for  
21 specialized legal services pursuant to section 1 of this Act, nor is a full-time state's attorney  
22 entitled to extra compensation for representation of the county or its officers in civil cases and  
23 administrative proceedings outside the county pursuant to § 7-16-6.

24 Section 4. That chapter 7-16 be amended by adding thereto a NEW SECTION to read as

1 follows:

2 Any contracts for legal services made by a board of county commissioners prior to July 1,  
3 2004, are hereby validated, legalized, and cured, notwithstanding any errors, omissions, or  
4 informalities.

# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

228J0288

## SENATE ENGROSSED NO. **SB 211** - 02/06/2004

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

Introduced by: Senators LaPointe, Abdallah, Brown, de Hueck, Dempster, Dennert, Greenfield, Jaspers, Kelly, Kloucek, Koetzle, Moore, Nachtigal, Olson (Ed), Reedy, Schoenbeck, Sutton (Dan), and Symens and Representatives Van Norman, Burg, Gillespie, McCoy, Thompson, and Valandra

1 FOR AN ACT ENTITLED, An Act to establish a commission to study compliance with the  
2 federal Indian Child Welfare Act, to afford due regard to the Act, and to declare an  
3 emergency.

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

5 Section 1. There is hereby established the Governor's Commission on the Indian Child  
6 Welfare Act. The commission shall study the requirements of the federal Indian Child Welfare  
7 Act, (25 U.S.C. §§ 1901-1963), as amended to January 1, 2004, including compliance with the  
8 requirements for notice, placement, expert witness testimony, intervention, transfer of  
9 jurisdiction, and active efforts, and the means by which Indian tribes can assist in pursuing the  
10 policies of the Act.

11 Section 2. The Governor shall appoint an independent reviewer to complete an analysis of  
12 compliance with the Act by the Department of Social Services, the states attorneys, the Unified  
13 Judicial System, and private agencies involved in foster care and adoption, and the means by  
14 which Indian tribes can assist the state and private agencies in achieving compliance. Upon



1 completion, the independent reviewer shall submit the analysis of compliance to the  
2 commission.

3 Section 3. The commission may not exceed twenty-nine members. The Governor shall  
4 appoint up to eighteen members including a representative of each of the nine Indian tribes of  
5 South Dakota upon the written recommendation of the tribal chairman or the appointed  
6 representative of the tribal chairman, a representative from a court appointed special advocates  
7 program, two representatives of private child placement agencies, four representatives from the  
8 Department of Social Services, and two representatives from the Department of Corrections, one  
9 of whom is a member of the Council of Juvenile Services. The President of the Senate shall  
10 appoint two members, including one from each political party. The Speaker of the House shall  
11 appoint two members, including one from each political party. The Chief Justice of the Supreme  
12 Court of South Dakota shall appoint five members. The South Dakota State's Attorney  
13 Association shall appoint two members.

14 Section 4. The commission is administered by the Office of the Governor. The commission  
15 shall hold not less than four meetings and shall dissolve and cease to exist on December 31,  
16 2004. The study by the commission shall include the following areas:

- 17 (1) Review the analysis of compliance completed by the independent reviewer and based  
18 upon the results, identify and prioritize any issues or barriers preventing or hindering  
19 compliance;
- 20 (2) Review the efforts of the Department of Social Services to enter into agreements with  
21 Indian tribes regarding licensing of foster homes, access to federal funding, and  
22 contracting of child protection services;
- 23 (3) Explore and evaluate options to address and resolve identified issues and barriers  
24 preventing or hindering compliance; and

1 (4) Make recommendations to improve compliance with the federal Indian Child  
2 Welfare Act, (25 U.S.C. §§ 1901-1963), as amended to January 1, 2004, and identify  
3 additional resources needed to implement the recommendations.

4 Section 5. The commission shall provide a final report to the Eightieth Session of the  
5 Legislative Assembly which shall include the findings of the commission and any  
6 recommendations to improve compliance with the federal Indian Child Welfare Act, (25 U.S.C.  
7 §§ 1901-1963), as amended to January 1, 2004.

8 Section 6. Notwithstanding §§26-7A-28, 26-7A-37 and 26-8A-13, the records and files of  
9 the Department of Social Services and its licensees, and the records of court proceedings  
10 pursuant to chapter 26-7A and chapter 26-8A involving an apparent, alleged or adjudicated  
11 abused or neglected child, including transcripts contained in such records, are open to inspection  
12 by the independent reviewer to complete the analysis of compliance described in section 2 of  
13 this Act. Any information received by the independent reviewer and its agents or employees  
14 which identifies a parent, guardian, custodian, or child shall be held confidential as required by  
15 § 26-8A-13.

16 Section 7. That § 25-5A-35 be amended to read as follows:

17 25-5A-35. Sixty days after the emergency medical services provider or licensed child  
18 placement agency takes possession of the child a hearing shall be held in circuit court to  
19 terminate parental rights. ~~Due regard in the administration of §§ 25-5A-27 to 25-5A-35,~~  
20 ~~inclusive, shall be afforded to the Indian Child Welfare Act (25 U.S.C. Secs. 1901-1963) if that~~  
21 ~~act is applicable.~~

22 Section 8. That chapter 25-5A be amended by adding thereto a NEW SECTION to read as  
23 follows:

24 Due regard shall be afforded to the Indian Child Welfare Act (25 U.S.C. §§ 1901-1963), as

1 amended to January 1, 2004, if that Act is applicable.

2 Section 9. That chapter 25-6 be amended by adding thereto a NEW SECTION to read as  
3 follows:

4 Due regard shall be afforded to the Indian Child Welfare Act (25 U.S.C. §§ 1901-1963), as  
5 amended to January 1, 2004, if that Act is applicable.

6 Section 10. That chapter 26-8A be amended by adding thereto a NEW SECTION to read  
7 as follows:

8 Due regard shall be afforded to the Indian Child Welfare Act (25 U.S.C. §§ 1901-1963), as  
9 amended to January 1, 2004, if that Act is applicable.

10 Section 11. Whereas, this Act is necessary for the immediate preservation of the public  
11 peace, health, or safety, an emergency is hereby declared to exist, and this Act shall be in full  
12 force and effect from and after its passage and approval.