

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

348J0574

SENATE ENGROSSED NO. **HB 1183** - 02/20/2004

Introduced by: Representatives Novstrup, Kraus, LaRue, McCaulley, Rhoden, and Weems
and Senator Sutton (Duane)

1 FOR AN ACT ENTITLED, An Act to provide the temporary replacement of any elected official
2 incapacitated by illness or accident.

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

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

6 If any member of a governing body or any other elected officer of a county, municipality,
7 school district, township, or special purpose district, who is incapacitated by illness or an
8 accident which causes the member or officer to be unable to attend meetings of the governing
9 body or fulfill the duties of the office, the member may elect to temporarily resign from the
10 governing body or office. Notice of temporary resignation may be given in the same manner as
11 giving notice of resignation from the governing body or office. If the member or officer is
12 unable to give notice, the member's or officer's spouse or guardian or any person who has
13 durable power of attorney for the member or officer may give notice of resignation. A temporary
14 replacement may be made in accordance with the provisions of statute applying to the governing
15 body or office. The temporary member or officer shall serve until the member or officer is able



- 1 to fulfill the requirements of office or until the expiration of the member's or officer's term,
- 2 whichever comes first.

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

400J0214

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **SB 28** - 02/20/2004

Introduced by: The Committee on State Affairs at the request of the Department of Revenue
and Regulation

1 FOR AN ACT ENTITLED, An Act to revise the conditions where the state may enter into
2 compacts with Indian tribes.

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

4 Section 1. That § 10-12A-4 be amended to read as follows:

5 10-12A-4. The department may enter into tax collection agreements with any Indian tribe
6 under the provisions of this chapter and chapter 1-24. These agreements may provide for the
7 collection of any of the following state taxes and any tribal taxes imposed by a tribe that are
8 identical to the following state taxes:

- 9 (1) The retail sales and service tax imposed by chapter 10-45;
- 10 (2) The use tax imposed by chapter 10-46;
- 11 (3) The contractors' excise tax imposed by chapter 10-46A;
- 12 (4) The alternate contractors' excise tax imposed by chapter 10-46B;
- 13 (5) The cigarette tax imposed by chapter 10-50;
- 14 (6) The motor vehicle excise tax imposed by chapter 32-5B; ~~or~~
- 15 (7) The fuel excise tax imposed by chapter 10-47B;



1 (8) The wholesale tax on tobacco products imposed by chapter 10-50; or

2 (9) The amusement device tax imposed by chapter 10-58.

3 The agreement may provide for the retention by the department of an agreed-upon

4 percentage of the gross revenue as an administrative fee.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

400J0358

HOUSE COMMERCE COMMITTEE ENGROSSED NO.

SB 34 - 02/10/2004

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

Introduced by: The Committee on Commerce at the request of the Department of Revenue and Regulation

1 FOR AN ACT ENTITLED, An Act to require health carriers to offer certain deductible options
2 for certain health benefit plans and to declare an emergency.

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

4 Section 1. That chapter 58-17 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any health carrier with any in force individual health benefit plan issued in accordance with
7 § 58-17-85 prior to August 1, 2003, shall offer, at the option of the insured, additional
8 deductible options of the following:

- 9 (1) One thousand dollars with a four thousand dollar out-of-pocket coinsurance
10 maximum;
- 11 (2) Three thousand dollars with a two thousand dollar out-of-pocket coinsurance
12 maximum;
- 13 (3) Five thousand dollars with no coinsurance; and
- 14 (4) Ten thousand dollars with a twelve thousand two hundred fifty dollar out-of-pocket



1 maximum, including the deductible.

2 Any additional deductible option, with the exception of the five thousand dollar option, shall
3 require that the insured be responsible for a twenty-five percent coinsurance. The premium rates
4 for these benefit plans shall be adjusted based upon the actuarial difference in benefits.

5 Section 2. Whereas, this Act is necessary for the immediate preservation of the public peace,
6 health, or safety, an emergency is hereby declared to exist, and this Act shall be in full force and
7 effect from and after its passage and approval.

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

409J0138

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **SB 85** - 01/26/2004

Introduced by: Senators Bogue, Albers, Kleven, and McCracken and Representatives Rhoden, LaRue, and Smidt

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to the approval of
2 airports.

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

4 Section 1. That § 50-5-1 be amended to read as follows:

5 50-5-1. ~~All owners and operators of all airports, landing fields, air schools, and flying clubs~~
6 ~~and the owners and operators of all air beacons and other air navigation facilities shall make~~
7 ~~application~~ Any owner or operator of a public airport shall apply to the South Dakota
8 Aeronautics Commission for its approval for such airports, landing fields, air schools, flying
9 clubs, air beacons, and other air navigation facilities and the public airport prior to its use. Any
10 owner or operator of a private airport located within two miles of the nearest boundary of any
11 approved public airport shall apply to the South Dakota Aeronautics Commission for approval
12 for such private airport prior to its use. The commission shall ~~immediately~~ consider and pass
13 ~~upon such applications~~ either approve or reject an application within sixty days of receipt of the
14 completed application.

15 Section 2. That chapter 50-5 be amended by adding thereto a NEW SECTION to read as



1 follows:

2 The approval requirements of § 50-5-1 do not apply to temporary airports, landing fields,
3 or landing strips used only by aircraft while engaged in providing emergency medical services
4 or other emergency services.

5 Section 3. That § 50-1-1 be amended by adding thereto two NEW SUBDIVISIONS to read
6 as follows:

7 "Private airport," any airport, landing field, or landing strip that is open to and available for
8 use only by the owner and the owner's invitees;

9 "Public airport," any airport, landing field, or landing strip, whether publicly or privately
10 owned, that is open to and available for use by the flying public.

11 Section 4. That § 50-5-2 be repealed.

12 ~~50-5-2. All proposed airports, landing fields, air schools, flying clubs, air beacons, or other~~
13 ~~air navigation facilities shall first be approved by the Aeronautics Commission before they, or~~
14 ~~any of them, shall be so used or operated. A violation of this section is a Class 2 misdemeanor.~~

15 Section 5. That § 50-5-3 be amended to read as follows:

16 50-5-3. The Aeronautics Commission is hereby authorized to may issue a certificate of its
17 approval ~~in each case under~~ pursuant to § 50-5-1 ~~or 50-5-2~~ and to ~~make~~ may set a reasonable
18 charge therefor by rules ~~or regulations issued~~ promulgated pursuant to chapter 1-26.

19 Section 6. That § 50-5-4 be amended to read as follows:

20 50-5-4. It is a Class 2 misdemeanor to use or operate ~~an~~ a public airport, landing field, air
21 ~~school, flying club, air beacon, or other air navigation facility~~ or a private airport located within
22 two miles of the nearest boundary of an approved public airport without the prior approval of
23 the Aeronautics Commission.

24 Section 7. That § 50-5-6 be amended to read as follows:

1 50-5-6. ~~In any case where~~ If the Aeronautics Commission rejects an application for
2 permission to operate or establish an airport, ~~landing field, air school, flying club, air beacon,~~
3 ~~or other air navigation facility, or in any case where~~ or if the commission ~~shall issue~~ issues any
4 order requiring certain things to be done, ~~it~~ the commission shall set forth its reasons therefor
5 and shall state the requirements to be met before such approval will be given or such order
6 modified or changed.

7 Section 8. That § 50-5-9 be amended to read as follows:

8 50-5-9. The South Dakota Aeronautics Commission ~~shall at all times maintain on file in its~~
9 ~~office a list of airport landing fields and landing strips which have been approved for public use~~
10 ~~by aircraft setting forth the legal descriptions of the real property occupied~~ and any state, county,
11 or municipal officer charged with the duty of enforcing this chapter, may inspect and examine,
12 at reasonable hours, any premises, and any building and any other structure thereon, where any
13 airport is operated.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

565J0625

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

SB 96 - 02/20/2004

Introduced by: Senators Schoenbeck, de Hueck, and Knudson and Representatives Konold, Madsen, McCaulley, Murschel, and Solum

1 FOR AN ACT ENTITLED, An Act to provide for the creation of county interdisciplinary child
2 information teams and to regulate their memberships, authority, and responsibilities.

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

4 Section 1. The following persons and agencies operating within a county may, by written
5 agreement, form a county interdisciplinary child information team:

6 (1) The state's attorney;

7 (2) The county sheriff;

8 (3) The chief of police of any municipality;

9 (4) The superintendent or the chief executive officer of any school district;

10 (5) The Department of Social Services;

11 (6) The Department of Corrections; and

12 (7) The administrator of the county teen court.

13 Section 2. The persons and agencies signing a written agreement to form a county
14 interdisciplinary child information team may, from time to time, by majority vote, allow the
15 following persons to sign the written agreement and join the team:



- 1 (1) Any physician, psychologist, psychiatrist, nurse, or other provider of medical and
2 mental health care;
- 3 (2) Any administrator of any private elementary and secondary school;
- 4 (3) Any attorney practicing law in the county; and
- 5 (4) Any responsible person that has a legitimate interest in one or more of the children
6 that the team is serving.

7 Section 3. The county interdisciplinary child information team may form one or more
8 auxiliary teams for the purpose of providing service to a single child, a group of children, or
9 specific children with a particular type of problem, or for any other purpose. Each auxiliary team
10 is subject to the written agreement. Each member of an auxiliary team must be a person who has
11 personal knowledge of or experience with some child serviced by the auxiliary team.

12 Section 4. The county interdisciplinary child information team and the written agreement
13 shall facilitate the exchange and sharing of information that one or more team members may be
14 able to use in serving a child in the course of their professions, specialities, interests, or
15 occupations for the purpose of holding each child accountable, ensuring the safety of the child
16 and the community, and providing early intervention to avert more serious problems.
17 Information regarding any child that a team member supplies to other team members is
18 confidential and may not be disseminated beyond the team.

19 Section 5. The terms of the written agreement shall provide for the rules under which the
20 team will operate, the method by which information will be shared, distributed, and managed,
21 the means by which the confidentiality of the information will be safeguarded, and any other
22 matters necessary to the purpose and functions of the team. The terms of the written agreement
23 shall also provide how the team will coordinate its efforts with child protection teams as
24 provided in § 26-8A-17 and local interagency teams, if any, as provided in § 27A-15-54. The

1 written agreement shall be filed with the county auditor.

2 Section 6. To the extent that the county interdisciplinary child information team is involved
3 in a proceeding that is held prior to adjudication by a court, the team satisfies the requirements
4 of 20 U.S.C. 1232g(b)(1)(E)(ii)(I) of the Family Educational Rights and Privacy Act of 1974.
5 South Dakota school districts may release education records to the team. The terms of the
6 written agreement, as provided for in section 5 of this Act, shall include a requirement that the
7 officials and authorities to whom the information is disclosed certify in writing to the school
8 district that is releasing the education records that the education records or information from the
9 education records will not be disclosed to any other party without the prior written consent of
10 the parent or guardian of the student.

11 Section 7. Any person serving as a member of a county interdisciplinary child information
12 team as provided in section 1 of this Act whose action in facilitating the exchange and sharing
13 of information in serving any child in the course of their professions, specialities, interests, or
14 occupations for the purpose of holding each child accountable, ensuring the safety of the child
15 and the community, and providing early intervention to avert more serious problems, is immune
16 from any civil liability that might otherwise be incurred or imposed.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

862J0338

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

SB 108 - 02/20/2004

Introduced by: Senators Schoenbeck, de Hueck, and Koskan and Representatives Garnos and Juhnke

1 FOR AN ACT ENTITLED, An Act to clarify certain provisions concerning the residency
2 requirements for state's attorneys in certain small counties.

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 In any county with a population of less than five thousand persons, no state's attorney is
7 disqualified from holding office for failure to be a resident of that county if the state's attorney
8 is a resident of a county which is contiguous to the county in which the state's attorney holds
9 such office.



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

493J0632

HOUSE HEALTH AND HUMAN SERVICES

COMMITTEE ENGROSSED NO. **SB 147** - 02/20/2004

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

Introduced by: Senators Moore and Olson (Ed) and Representatives Michels and Hunhoff

1 FOR AN ACT ENTITLED, An Act to define the term, autopsy.

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

3 Section 1. That § 34-25-1.1 be amended by adding thereto a NEW SUBDIVISION to read
4 as follows:

5 "Autopsy," the post mortem dissection and examination of a dead body, including fetal
6 tissue older than twenty-four weeks.



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

400J0702

SENATE EDUCATION COMMITTEE ENGROSSED NO. **SB 205** - 02/05/2004

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

1 FOR AN ACT ENTITLED, An Act to provide for the distribution of certain money
2 appropriated as state aid.

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

4 Section 1. The secretary of the Department of Education shall distribute any money, not to
5 exceed seven million three hundred seven thousand eight hundred ninety-six dollars
6 (\$7,307,896), from state aid which is not obligated or expended at the end of the fiscal year.

7 Section 2. For purposes of this Act, average daily membership means average daily
8 membership as defined in § 13-13-10.1 for school fiscal year 2003.

9 Section 3. Each school district's share of the distribution provided for in section 1 of this Act
10 is determined according to the following calculations:

11 (1) Divide each school district's average daily membership by the statewide average daily
12 membership;

13 (2) Multiply the quotient obtained by calculation (1) by the total amount of money
14 identified for distribution pursuant to section 1 of this Act.

15 Section 4. Any funds from state aid which are unspent at the end of fiscal year 2004 shall



1 be carried over to fiscal year 2005.

2 Section 5. This Act is effective on June 14, 2004.

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.