



# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

820M0166

HOUSE AGRICULTURE AND NATURAL RESOURCES

COMMITTEE ENGROSSED NO. **HB 1071** -

01/26/2006

Introduced by: Representatives Tidemann, Brunner, Davis, Dennert, Fryslie, Gassman, Hackl, Halverson, Hargens, Haverly, Heineman, Howie, Hunhoff, Jensen, Klaudt, Lange, Nelson, O'Brien, Peters, Rausch, Rave, Rounds, Sigdestad, and Street and Senators Hanson (Gary), Bartling, Duenwald, Earley, Gray, Kloucek, Koskan, Lintz, McNenny, Moore, Peterson (Jim), Sutton (Dan), and Sutton (Duane)

1 FOR AN ACT ENTITLED, An Act to amend the composition, supervision, and functioning of  
2 the State Seed Certification Board.

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

4 Section 1. That § 38-11-2 be amended to read as follows:

5 38-11-2. All members of the State Seed Certification Board shall be electors of the state; ~~one~~  
6 two shall be ~~a person~~ persons recommended for appointment by the South Dakota Crop  
7 Improvement Association; ~~one shall be a person recommended for appointment by the South~~  
8 ~~Dakota Horticultural Society~~; one shall be a representative of the State Department of  
9 Agriculture; ~~one two member~~ shall be ~~a person~~ persons recommended by the dean of agriculture  
10 at South Dakota State University; ~~one shall be a person recommended for appointment by the~~  
11 ~~South Dakota Potato Growers' Association; the~~. The members of the board shall be appointed  
12 so as to represent all areas of the state. The secretary of agriculture shall make these



1 appointments from ~~a list~~ lists of two or more names submitted for each position on the board.

2 Section 2. That § 38-11-1.1 be amended to read as follows:

3 38-11-1.1. The Seed Certification Board shall be administered under the direction and  
4 supervision of the ~~Department of Agriculture and the secretary thereof~~ College of Agriculture  
5 and Biological Sciences at South Dakota State University and the dean of the college, but shall  
6 retain the quasi-judicial, quasi-legislative, advisory, other nonadministrative and special  
7 budgetary functions (~~as defined in § 1-32-1~~)<sub>2</sub> otherwise vested in it and shall exercise those  
8 functions independently of the ~~secretary of agriculture~~ dean and the college.

9 Section 3. That § 38-11-4 be amended to read as follows:

10 38-11-4. The State Seed Certification Board shall hold its meetings ~~at the seat of~~  
11 ~~government~~ at such times and places as it designates, ~~but there shall not be~~. The board shall hold  
12 at least one, but not more than four regular meetings each year, including the annual meeting  
13 ~~which shall be held on the last Tuesday of January of each year, at which~~. At the annual meeting  
14 the president, vice-president, and secretary shall be elected for the ensuing year; ~~provided that~~  
15 ~~the~~. The president of the board ~~shall have power to~~ may call special meetings whenever ~~in his~~  
16 ~~judgment he finds~~ the president judges it necessary.

17 Section 4. That § 38-11-6 be amended to read as follows:

18 38-11-6. The ~~State Seed Certification Board is~~ secretary of agriculture and the dean of the  
19 College of Agriculture and Biological Sciences at South Dakota State University shall designate  
20 the official seed certifying agency for the state. The ~~board~~ State Seed Certification Board may  
21 designate one or more public or private entities to perform necessary seed certification activities  
22 under the supervision of the board. The board may designate separate official certification  
23 agencies for various types or classifications of seed or propagating materials. The board shall  
24 notify the secretary and the dean of any designations made pursuant to this section.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

357M0254

HOUSE TAXATION COMMITTEE ENGROSSED NO.

**HB 1112 - 01/26/2006**

Introduced by: Representatives Deadrick, Boomgarden, Buckingham, Davis, Dykstra, Frost, Garnos, Glover, Hackl, Hills, Howie, Hunt, Jensen, Jerke, Nelson, Novstrup, Rhoden, Rounds, Sigdestad, Turbiville, Van Etten, and Willadsen and Senators Lintz, Bartling, Greenfield, McNenny, Moore, and Peterson (Jim)

1 FOR AN ACT ENTITLED, An Act to exempt certain real property owned by local industrial  
2 development corporations from property taxation.

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

4 Section 1. That chapter 10-4 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 One hundred thousand dollars of the full and true value of the total amount of real property  
7 or portion thereof owned by a local industrial development corporation defined pursuant to § 5-  
8 14-23 is exempt from property taxation. The full and true value of the real property that is in  
9 excess of one hundred thousand dollars shall be taxed as other property of the same class is  
10 taxed.

11 Section 2. That § 10-4-15 be amended to read as follows:

12 10-4-15. Any person, organization, corporation, or association claiming a property tax  
13 exemption status for any property under section 1 of this Act or §§ 10-4-9 to 10-4-14, inclusive,  
14 or as may otherwise be provided by law, shall apply for such exemption to the county director



- 1 of equalization on forms prescribed by the secretary of revenue and regulation prior to
- 2 November first of the tax year.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

727M0603

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

**HB 1118** - 01/23/2006

Introduced by: Representatives Rounds, Hennies, McCoy, and O'Brien and Senators Bogue, Bartling, and Schoenbeck

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding failure to stop at the  
2 command of a law enforcement officer and regarding eluding a law enforcement officer in  
3 a vehicle.

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

5 Section 1. That § 32-33-18 be amended to read as follows:

6 32-33-18. Any driver of a ~~motor~~ vehicle who intentionally fails or refuses to bring a vehicle  
7 to a stop, ~~or who otherwise flees or attempts to elude a pursuing law enforcement vehicle,~~ when  
8 given visual or audible signal to bring the vehicle to a stop, is guilty of ~~eluding~~ failure to stop  
9 at the signal of a law enforcement officer. The signal given by the law enforcement officer may  
10 be by hand, voice, emergency light, or siren. The officer giving the signal shall be in uniform,  
11 prominently displaying a badge of office, and the vehicle shall be appropriately marked showing  
12 it to be an official law enforcement vehicle.

13 ~~Eluding~~ Failure to stop at the signal of a law enforcement officer is a ~~Class 1~~ Class 2  
14 misdemeanor. In addition, the court ~~shall~~ may order that the defendant's driver's license be  
15 revoked for up to one year, but may issue an order, upon proof of financial responsibility



1 pursuant to § 32-35-43.1, allowing the defendant to operate a ~~motor~~ vehicle for purposes of the  
2 defendant's employment, attendance at school, or counseling programs. ~~Any person who is found~~  
3 ~~guilty of eluding is subject to the additional enhanced penalties if the course of eluding results~~  
4 ~~in:~~

- 5 ~~— (1) — Death or great bodily injury to another person, a Class 4 felony; and~~
- 6 ~~— (2) — Substantial bodily injury to another person or property damage in excess of five~~  
7 ~~hundred dollars to property belonging to a person other than the person eluding, a~~  
8 ~~Class 6 felony.~~

9 ~~— For any subsequent violation, the court shall order that the defendant's driver's license be~~  
10 ~~revoked for five years.~~

11 Section 2. That chapter 32-33 be amended by adding thereto a NEW SECTION to read as  
12 follows:

13 Any driver of a vehicle who, after failing or refusing to bring a vehicle to a stop pursuant  
14 to § 32-33-18, flees from the law enforcement officer or attempts to elude the pursuit of the law  
15 enforcement officer is guilty of eluding. Eluding is a Class 1 misdemeanor. In addition, the court  
16 may order that the defendant's driver's license be revoked for up to one year, but may issue an  
17 order, upon proof of financial responsibility pursuant to § 32-35-43.1, allowing the defendant  
18 to operate a vehicle for purposes of the defendant's employment, attendance at school, or  
19 counseling programs.

20 Section 3. That chapter 32-33 be amended by adding thereto a NEW SECTION to read as  
21 follows:

22 Any driver of a vehicle who flees from a law enforcement officer or attempts to elude the  
23 pursuit of a law enforcement officer is guilty of aggravated eluding if, at any time during the  
24 flight or pursuit, the driver operates the vehicle in a manner that constitutes an inherent risk of

1 death or serious bodily injury to any third person. Any of the following constitutes an inherent  
2 risk of death or serious bodily injury to a third person, while fleeing from a law enforcement  
3 officer or attempting to elude the pursuit of a law enforcement officer:

- 4 (1) Death or serious bodily injury to any person; or
- 5 (2) Reckless driving as defined in § 32-24-1; or
- 6 (3) Failure to surrender to authority within ten minutes of the initiation of the flight or  
7 attempted elusion; or
- 8 (4) Failure to surrender to authority prior to traveling five miles in the course of the flight  
9 or attempted elusion.

10 Aggravated eluding is a Class 6 felony. In addition, the court may order that the defendant's  
11 driver's license be revoked for up to one year, but may issue an order, upon proof of financial  
12 responsibility pursuant to § 32-35-43.1, allowing the defendant to operate a vehicle for purposes  
13 of the defendant's employment, attendance at school, or counseling programs. For any  
14 subsequent aggravated eluding violation, the court shall order that the defendant's driver's  
15 license be revoked for five years.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

527M0485

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1140** - 01/25/2006

Introduced by: Representatives Haley, Hargens, Hennies, Murschel, and O'Brien and Senators Hansen (Tom), Abdallah, Broderick, Hundstad, Koetzle, Nesselhuf, Olson (Ed), Peterson (Jim), and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the continuing  
2 eligibility requirements for opportunity scholarship recipients.

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

4 Section 1. That § 13-55-34 be amended to read as follows:

5 13-55-34. In order to maintain eligibility, a student shall:

6 (1) Maintain a cumulative 3.0 grade point average on a 4.0 scale. Cumulative grade point  
7 average shall be calculated after the second semester and every semester thereafter.  
8 The student shall complete consecutive spring and fall terms in order to remain  
9 eligible for continuation of the scholarship program from term to term. A student  
10 whose cumulative grade point average falls below 3.0 on a 4.0 scale shall forfeit the  
11 scholarship for the subsequent semester and for subsequent semesters until the  
12 student has reestablished eligibility. To reestablish eligibility, the student shall  
13 comply with all course load, enrollment, and proficiency examination requirements  
14 for continued eligibility stated in §§ 13-55-30 to 13-55-35, inclusive, and the student



1 shall achieve a cumulative grade point average of 3.0, or greater, on a 4.0 scale. The  
2 scholarship shall be reinstated beginning the semester following that in which the  
3 student achieves a cumulative grade point average of 3.0, or greater, on a 4.0 scale.  
4 Reinstatement of a scholarship does not extend the time allowed under the  
5 scholarship program; any scholarship award forfeited cannot be reclaimed after a  
6 student has regained eligibility. A student whose cumulative grade point average falls  
7 below 3.0 on a 4.0 scale a second time forfeits the scholarship for all subsequent  
8 semesters;

9 (2) Complete fifteen credit hours of instruction per semester. The student shall enroll in  
10 and complete at least fifteen credit hours of instruction in each consecutive spring  
11 and fall term. If the executive director of the Board of Regents determines that a  
12 student's failure to enroll or to maintain continued enrollment occurred as a direct  
13 result of the student's participation in intercollegiate athletics or of legitimate factors  
14 outside the student's control, or has resulted from the student's participation in an  
15 activity that in the executive director's judgment provides knowledge or experience  
16 that will enhance the student's academic pursuits, the executive director may extend  
17 the student's eligibility to participate in the program for up to two additional years,  
18 if the student does not enroll in a noneligible institution; and

19 (3) Sit for and pass all sections of a college proficiency exam as required by Board of  
20 Regents Policy Number 2.28 as in effect on January 1, 2003, at the end of the  
21 sophomore year. The Board of regents may review and adjust the proficiency  
22 examinations administered in keeping with sound academic practice. If such changes  
23 are made, the Board of Regents shall notify all eligible institutions of new testing  
24 standards or requirements. If the student fails to pass the proficiency examinations

1 the first time, eligibility is forfeited for continuation in the scholarship program.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

744M0244

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB 1161** - 01/26/2006

Introduced by: Representatives Brunner, Halverson, Hanks, Hills, McCoy, Rhoden, and  
Turbiville and Senators McNenny, Bogue, Hansen (Tom), Koskan, Lintz, and  
Napoli

1 FOR AN ACT ENTITLED, An Act to provide additional methods for the formation of special  
2 zoning areas.

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

4 Section 1. That § 11-2-37 be amended to read as follows:

5 11-2-37. If an area within a county and not within a municipality becomes so situated that  
6 a zoning ordinance or any other purpose or procedure set forth in this chapter is advisable,  
7 persons within the area may apply to the board to establish the area as a special zoning area or  
8 the board may on its own initiative establish the area as a special zoning area, pursuant to this  
9 chapter. ~~The board may not form special zoning areas if~~ No special zoning area may be formed  
10 in a county in which a county wide comprehensive plan and zoning ordinances have been  
11 adopted. The formation of a special zoning area is only valid in a county that has not adopted  
12 a county wide comprehensive plan and zoning ordinances. The board may establish a special  
13 zoning area on its own initiative if the special zoning area comprises an area of at least five  
14 square miles.



1 Section 2. That § 11-2-38 be amended to read as follows:

2 11-2-38. Persons making application for the establishment of a special zoning area, or the  
3 board if it is proposing the establishment of a special zoning area, shall first obtain an accurate  
4 survey and map of the territory intended to be embraced within the limits of the special zoning  
5 area, showing the boundaries and area of the proposed special zoning area. The accuracy of the  
6 survey and map shall be verified by the affidavit of the surveyor.

7 Section 3. That § 11-2-39 be amended to read as follows:

8 11-2-39. ~~Such persons~~ Persons making application for the establishment of a special zoning  
9 area, or the board, if it is proposing the establishment of a special zoning area, shall obtain an  
10 accurate census of the resident population of the territory included in ~~said~~ the map, as of a day  
11 not more than thirty days ~~previous to the time of filing such application~~ before the application  
12 is filed with the county auditor as provided in § 11-2-41. ~~Such~~ or not more than thirty days  
13 before the board has proposed the establishment of a special zoning area. The census shall  
14 exhibit the name of every head of a family residing within ~~such~~ the territory on such day and the  
15 number and names of persons belonging to every ~~such~~ family and shall also state the names of  
16 all other persons residing within ~~such~~ the territory at such time and, as to each person named,  
17 whether ~~such~~ the person is a qualified voter. It shall be verified by the affidavit of the person ~~or~~  
18 ~~persons~~ taking the ~~same~~ census, stating that, to the best information and belief of the affiant ~~or~~  
19 ~~affiants~~, the census correctly shows the names and numbers of all residents and of all qualified  
20 voters within the territory. Persons taking the census may at the same time obtain signatures on  
21 the application for incorporation required by § 11-2-41.

22 Section 4. That § 11-2-40 be amended to read as follows:

23 11-2-40. ~~Such~~ The survey, map, and census when completed and verified shall be left at  
24 some convenient public place, to be designated by the county auditor ~~of the county in which the~~

1 application for incorporation is to be filed, within such territory the proposed special zoning area  
2 for a period of not less than twenty days for examination by ~~those having an interest in such~~  
3 ~~application~~ the public.

4 Section 5. That § 11-2-41 be amended to read as follows:

5 11-2-41. The application for establishment of a special zoning area shall be a petition  
6 verified by one or more applicants, by affidavit stating that the affiant ~~or affiants~~ personally  
7 witnessed the signatures on the petition and believe ~~them~~ the signatures to be genuine, and shall  
8 be subscribed by not less than one-third of the whole number of qualified voters residing within  
9 the ~~territory~~ proposed special zoning area according to the census taken. The petition shall be  
10 filed with the county auditor and presented to the board for consideration at its next meeting.  
11 If the board chooses to propose the establishment of a special zoning area on its own initiative,  
12 the board may by resolution propose the establishment of the special zoning area at any regular  
13 meeting of the board. After the board has adopted a resolution proposing the establishment of  
14 a special zoning area, the board shall publish notice and hold a public hearing on the question  
15 as provided in this Act.

16 Section 6. That § 11-2-42 be amended to read as follows:

17 11-2-42. If a petition has been presented to the board as provided in § 11-2-41 and if the  
18 board is satisfied that the requirements of this chapter have been fully complied with, it shall  
19 make an order declaring that the territory shall, with the assent of the qualified voters thereof  
20 as provided in § 11-2-39, be a special zoning area or number specified in the application. The  
21 board shall include in the order a notice for an election of the qualified voters resident in the  
22 proposed special zoning area, at a convenient place or places therein, on some day within one  
23 month from the notice, to determine whether the territory shall become a special zoning area.

24 Section 7. That § 11-2-43 be amended to read as follows:

1 11-2-43. The board shall give ten days' notice of the election by publication and by posting  
2 a copy of the notice at three of the most public places in the proposed special zoning area. In the  
3 case of a special zoning area that is proposed by the board, the board shall post such notice at  
4 least ten days before the meeting at which it will act on the establishment of the special zoning  
5 area. In addition, if the board is proposing the establishment of a special zoning area, the board  
6 shall publish notice in the official newspapers of the county at least ten days before the meeting  
7 at which it intends to act on the establishment of the special zoning area. For a special zoning  
8 area proposed by the board, the published notice shall include a statement that the board will  
9 hold a public hearing on the establishment of the proposed special zoning area; the location of  
10 the proposed special zoning area; the date, time, and location of the meeting at which the  
11 hearing will be held; and a statement that the board will take final action on the establishment  
12 of the special zoning area after the hearing is completed.

13 Section 8. That § 11-2-47 be amended to read as follows:

14 11-2-47. After the vote is cast and canvassed, the judges shall make a verified statement  
15 showing the whole number of ballots cast, together with the number voting for and the number  
16 voting against establishment, and shall return the statement to the board at its next session. If  
17 satisfied with the legality of the election, the board shall make an order declaring that the special  
18 zoning area has been incorporated by the name or number adopted. The order is conclusive of  
19 the fact of establishment.

20 In the case of a special zoning area that is proposed by the board, the board shall hold a  
21 public hearing at a meeting of the board on the establishment of the proposed special zoning  
22 area. The meeting shall be held as specified in the notice published pursuant to this Act. After  
23 the public hearing, the board shall determine whether the special zoning area is to be  
24 established. If the board decides to establish the special zoning area, the board shall issue an

1 order establishing and incorporating the special zoning area.

2 Section 9. That chapter 11-2 be amended by adding thereto a NEW SECTION to read as  
3 follows:

4 The board's decision to establish and incorporate the special zoning area may be referred to  
5 a vote of the qualified voters of the proposed special zoning area pursuant to §§ 7-18A-17 to 7-  
6 18A-24, inclusive. The qualified voters of the proposed special zoning area may refer the  
7 decision withing twenty days after its publication by filing a petition signed by five percent of  
8 the registered voters in the special zoning area, based upon the total number of registered voters  
9 at the last preceding general election. The filing of a valid petition requires the submission of  
10 the decision to establish and incorporate the special zoning area to a vote of the qualified voters  
11 of the proposed special zoning area for its rejection or approval. The effective date of the  
12 establishment and incorporation of the special zoning area on which a referendum is to be held  
13 shall be suspended by the filing of a referendum petition until the referendum process is  
14 completed.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

492M0577

HOUSE TAXATION COMMITTEE ENGROSSED NO.

**HB 1174** - 01/26/2006

Introduced by: Representatives Hanks and McCoy and Senators Adelstein, Duniphan, and McCracken

1 FOR AN ACT ENTITLED, An Act to revise certain provisions concerning business  
2 improvement districts.

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

4 Section 1. That § 9-55-8 be amended to read as follows:

5 9-55-8. A notice of a hearing required under subdivision 9-55-7(2) shall be given by mailing  
6 a complete copy of the resolution of intent to each owner of taxable property as shown on the  
7 property tax roll for ~~such county~~ the proposed district. If an occupation tax is to be imposed, a  
8 copy of the resolution of intent shall also be mailed to the occupant of each address located in  
9 the proposed district. Mailing shall be completed at least thirty days prior to the time of hearing.



# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

258M0258

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB 1196** - 01/26/2006

Introduced by: Representatives Kroger, Dennert, Elliott, Fryslie, Gassman, Gillespie, Glover, Haley, Halverson, Hargens, Hennies, Howie, Krebs, Lange, Miles, O'Brien, Roberts, Sigdestad, Street, Thompson, and Tornow and Senators Koetzle, Bartling, Broderick, Hanson (Gary), Kelly, Kloucek, Kooistra, Moore, Nesselhuf, Olson (Ed), Sutton (Dan), and Two Bulls

1 FOR AN ACT ENTITLED, An Act to require certain new construction of structures to comply  
2 with the building code.

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

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

6 If the governing body of any local unit of government does not adopt an ordinance  
7 prescribing standards for new construction pursuant to § 11-10-5, the design standard for new  
8 construction within the boundaries of that local unit of government shall be based on the 2003  
9 edition of the International Building Code as published by the International Code Council,  
10 Incorporated. The provisions of this section do not apply to new construction for any one or two  
11 family dwelling, townhouse, or farmstead and the accessory buildings thereto. For the purposes  
12 of this section the term, farmstead, means a farm or ranch, including its land and buildings. This  
13 section does not apply to any mobile or manufactured home as defined in chapter 32-7A which



- 1 is constructed in compliance with the applicable prevailing standards of the United States
- 2 Department of Housing and Urban Development at the time of construction.