



# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

664M0512

SENATE APPROPRIATIONS COMMITTEE  
ENGROSSED NO. **HB 1067** - 02/14/2006

Introduced by: Representatives Buckingham, Haverly, Heineman, and Van Etten and Senator  
Duniphan

1 FOR AN ACT ENTITLED, An Act to classify certain persons as residents for purposes of  
2 higher education tuition.

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

4 Section 1. That chapter 13-53 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 Any person who is actively serving in the armed forces of the United States, and who, at the  
7 time of registration, is stationed for active duty in the State of South Dakota, qualifies for  
8 resident tuition rates at the institutions controlled by the Board of Regents. The provisions of  
9 this Act also apply to the spouse of such person.



# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

716M0171

SENATE TRANSPORTATION COMMITTEE  
ENGROSSED NO. **HB 1084** - 02/14/2006

Introduced by: Representatives Michels, Hunhoff, and Rave and Senator Moore

1 FOR AN ACT ENTITLED, An Act to authorize counties to regulate the operation of certain  
2 off-road vehicles in highway ditches.

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

4 Section 1. That chapter 32-20 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 Notwithstanding the provisions of § 32-20-12, any board of county commissioners may, by  
7 ordinance, prohibit the operation of off-road vehicles in any highway ditch along any section  
8 of highway under its jurisdiction. However, no board of county commissioners may prohibit an  
9 off-road vehicle from crossing one side of the highway to the other. This section does not affect  
10 off-road vehicles used in normal agricultural operation or service vehicles of any utility while  
11 in the line of duty for the utility. For the purposes of this section, the term, utility, means any  
12 provider of electric, gas, water, sewer, pipeline, or telecommunications service.

13 Notice of any restriction made pursuant to this section shall be given by placing and  
14 maintaining regulatory signs at each end of the section of highway and at each point of  
15 intersection. The signs shall be of substantial construction which conspicuously indicates the



1 restriction.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

588M0308

SENATE COMMERCE COMMITTEE ENGROSSED NO.

**HB 1177** - 02/14/2006

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

Introduced by: Representatives Peters, Dennert, Dykstra, Gillespie, Glenski, Hackl, Hargens, Haverly, Hennies, Klautt, Kroger, Rounds, Tidemann, Van Etten, and Willadsen and Senators Earley, Apa, Bartling, Greenfield, Hanson (Gary), Kelly, Koskan, Napoli, Schoenbeck, Smidt, and Sutton (Duane)

1 FOR AN ACT ENTITLED, An Act to limit the amount in the Employer's Investment in South  
2 Dakota's Future Fund.

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

4 Section 1. That § 61-5-24.1 be amended to read as follows:

5 61-5-24.1. Employers required by this title to pay contributions, except employers that  
6 pursuant to chapter 61-5A reimburse the unemployment compensation trust fund for benefits  
7 paid in lieu of contributions, shall also pay an employer's investment in South Dakota's future  
8 fee, hereinafter "investment fee," on wages as defined by this title. The fee rate for employers  
9 not eligible for experience rating, as defined in § 61-5-20.2, shall be seventy hundredths percent  
10 through calendar year 2006 and fifty-five hundredths percent on and after January 1, 2007. If  
11 an employer is eligible for experience rating, his reserve ratio shall be determined pursuant to  
12 § 61-5-18.14 and his investment fee rate shall be the rate appearing in column "A" on the same  
13 line on which his reserve ratio appears in column "B" of the following rate ~~schedule~~ schedules.



1 From January 1, 1993, to December 31, 2006, inclusive:

2	Column "A"	Column "B"
3	Investment Fee Rate	Reserve Ratio
4	0.70%	Less than 0.80%
5	0.60%	0.80% and Less than 1.00%
6	0.50%	1.00% and Less than 1.20%
7	0.40%	1.20% and Less than 1.30%
8	0.30%	1.30% and Less than 1.40%
9	0.20%	1.40% and Less than 1.50%
10	0.10%	1.50% and Less than 1.60%
11	0.00%	1.60% and Over

12 From January 1, 2007, to December 31, 2007, inclusive:

13	<u>Column "A"</u>	<u>Column "B"</u>
14	<u>Investment Fee Rate</u>	<u>Reserve Ratio</u>
15	<u>0.60%</u>	<u>Less than 1.00%</u>
16	<u>0.50%</u>	<u>1.00% and Less than 1.20%</u>
17	<u>0.40%</u>	<u>1.20% and Less than 1.30%</u>
18	<u>0.30%</u>	<u>1.30% and Less than 1.40%</u>
19	<u>0.20%</u>	<u>1.40% and Less than 1.50%</u>
20	<u>0.10%</u>	<u>1.50% and Less than 1.60%</u>
21	<u>0.00%</u>	<u>1.60% and Over</u>

22 From January 1, 2008, to December 31, 2008, inclusive:

23	<u>Column "A"</u>	<u>Column "B"</u>
24	<u>Investment Fee Rate</u>	<u>Reserve Ratio</u>
25	<u>0.58%</u>	<u>Less than 1.00%</u>
26	<u>0.50%</u>	<u>1.00% and Less than 1.20%</u>
27	<u>0.40%</u>	<u>1.20% and Less than 1.30%</u>

1	<u>0.30%</u>	<u>1.30% and Less than 1.40%</u>
2	<u>0.20%</u>	<u>1.40% and Less than 1.50%</u>
3	<u>0.10%</u>	<u>1.50% and Less than 1.60%</u>
4	<u>0.00%</u>	<u>1.60% and Over</u>

5 From January 1, 2009, to December 31, 2009, inclusive:

6	<u>Column "A"</u>	<u>Column "B"</u>
7	<u>Investment Fee Rate</u>	<u>Reserve Ratio</u>
8	<u>0.56%</u>	<u>Less than 1.00%</u>
9	<u>0.50%</u>	<u>1.00% and Less than 1.20%</u>
10	<u>0.40%</u>	<u>1.20% and Less than 1.30%</u>
11	<u>0.30%</u>	<u>1.30% and Less than 1.40%</u>
12	<u>0.20%</u>	<u>1.40% and Less than 1.50%</u>
13	<u>0.10%</u>	<u>1.50% and Less than 1.60%</u>
14	<u>0.00%</u>	<u>1.60% and Over</u>

15 Beginning January 1, 2010:

16	<u>Column "A"</u>	<u>Column "B"</u>
17	<u>Investment Fee Rate</u>	<u>Reserve Ratio</u>
18	<u>0.55%</u>	<u>Less than 1.00%</u>
19	<u>0.50%</u>	<u>1.00% and Less than 1.20%</u>
20	<u>0.40%</u>	<u>1.20% and Less than 1.30%</u>
21	<u>0.30%</u>	<u>1.30% and Less than 1.40%</u>
22	<u>0.20%</u>	<u>1.40% and Less than 1.50%</u>
23	<u>0.10%</u>	<u>1.50% and Less than 1.60%</u>
24	<u>0.00%</u>	<u>1.60% and Over</u>

25 The terms and conditions of this title which apply to the payment and collection of  
 26 contributions also apply to the payment and collection of the investment fee. Proceeds from the  
 27 investment fee shall be deposited in the clearing account of the unemployment compensation

1 fund for clearance only and may not become part of the fund. After clearance, the money  
2 derived from such payments, less refunds made pursuant to the provisions of this title, shall be  
3 deposited in the employer's investment in South Dakota's future special revenue fund as  
4 provided for in § 61-5-24.2. Investment fee payments may not be credited to the employer's  
5 experience rating account and may not be deducted in whole or in part by any employer from  
6 the wages of individuals in its employ.

7 The investment fee rate may not be increased over the applicable 1987 investment fee rate  
8 for any employer with a positive balance in his experience rating account on the computation  
9 date, as established in rules promulgated by the secretary of labor pursuant to chapter 1-26, for  
10 the current year and the year preceding the current year.

11 The investment rates provided in this section apply to and are retroactive to taxable wages  
12 paid on and after January 1, 1993.

13 Section 2. That chapter 61-5 be amended by adding thereto a NEW SECTION to read as  
14 follows:

15 The Department of Labor and the Department of Tourism and State Development shall study  
16 and make recommendations regarding the broadening of the base of payers into the employer's  
17 investment in South Dakota's future fund. A report shall be made to the Governor and the  
18 Legislature by November 15, 2006.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

609M0247

## SENATE ENGROSSED NO. **HB 1206** - 02/16/2006

Introduced by: Representatives Garnos, Bradford, Hennies, Hills, and Turbiville and  
Senators Adelstein, Dempster, and Lintz

1 FOR AN ACT ENTITLED, An Act to provide contractors' excise, sales, and use tax refunds for  
2 the filming of certain motion pictures, documentaries, television advertisements, or  
3 television films.

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

5 Section 1. Terms used in this Act mean:

- 6 (1) "Department," the Department of Revenue and Regulation;
- 7 (2) "Filming date," the first date a person begins the production in South Dakota;
- 8 (3) "Person," any person who is engaged in the business of producing nationally or  
9 regionally distributed productions;
- 10 (4) "Production," a nationally or regionally distributed motion picture, documentary,  
11 single television advertisement, or television film made in South Dakota, in whole  
12 or in part, for theatrical, television, video, internet, or other viewing. The term does  
13 not include the production of television coverage of news and athletic events or any  
14 production that contains any obscene material or performance as described in § 22-  
15 24-27;



1       (5) "Project cost," the amount paid in money, credits, property, or other money's worth  
2       for a production. The term does not include expenditures made for marketing or  
3       advertising a production, other than a television advertisement. Nor does the term  
4       include expenditures made for goods and services obtained out of state for which no  
5       sales and use taxes were paid pursuant to chapters 10-45 or 10-46;

6       (6) "Secretary," the secretary of the Department of Revenue and Regulation.

7       Section 2. As provided in this Act, any person holding a permit issued pursuant to this Act  
8       may apply for and obtain a refund or credit for sales or use tax imposed and paid by such person  
9       under the provisions of chapter 10-45 or 10-46 and contractors' excise taxes imposed and paid  
10      under the provisions of chapter 10-46A or 10-46B on the project costs.

11      Section 3. The refund of taxes for a production pertains only to project costs incurred and  
12      paid after July 1, 2006, and within thirty-six months of the approval of the application required  
13      by this Act. No refund may be made unless:

14      (1) The project costs that are incurred in South Dakota exceeds the sum of two hundred  
15      fifty thousand dollars in taxable costs; and

16      (2) The person applying for the refund obtains a permit from the secretary as set forth in  
17      this Act.

18      Section 4. If the project cost for a production exceeds two hundred fifty thousand dollars in  
19      taxable costs, the refund shall be one hundred percent of the taxes attributed to the taxable  
20      project costs in excess of two hundred fifty thousand dollars.

21      Section 5. Any person desiring to claim a refund pursuant to this Act shall apply for a permit  
22      from the secretary at least thirty days prior to the filming date of the production. The application  
23      for a permit shall be submitted on a form prescribed by the secretary. A separate application  
24      shall be made and submitted for each production. Upon approval of the application, the

1 secretary shall issue a permit entitling the applicant to submit refund claims as provided by this  
2 Act. Such permit or refund claims are not assignable or transferable except as collateral or  
3 security pursuant to chapter 57A-9.

4 Section 6. Any claim for refund shall be submitted on forms prescribed by the secretary and  
5 shall be supported by such documentation as the secretary may require. The secretary may deny  
6 any claim where the claimant has failed to provide information or documentation requested or  
7 considered necessary by the secretary to determine the validity of the claim.

8 Section 7. Any person issued a permit pursuant to this Act shall submit a return to the  
9 department within sixty days after the completion of the project in South Dakota. At the  
10 discretion of the secretary, the person may apply for and obtain a refund more frequently than  
11 prescribed. The secretary shall determine and pay the amount of the tax refund within thirty days  
12 of receipt of the return. Ninety-five percent of the amount of refund shall be paid to the claimant  
13 in accordance with §§ 10-59-22 and 10-59-23, and five percent shall be withheld by the  
14 department. No interest may be paid on the refund amount. If electronic funds transfer is  
15 available to the secretary, the secretary shall pay the refund by electronic funds transfer if  
16 requested by the claimant.

17 Section 8. The amounts withheld by the department in accordance with this Act shall be  
18 retained until the production has been completed and the claimant has met all the conditions of  
19 this Act, at which time all sums retained shall be paid to the claimant.

20 Section 9. If any claim has been fraudulently presented or supported as to any item in the  
21 claim, or if the claimant fails to meet all the conditions of this Act, then the claim may be  
22 rejected in its entirety and all sums previously refunded to the claimant shall constitute a debt  
23 to the state and a lien in favor of the state upon all property and rights to property whether real  
24 or personal belonging to the claimant and may be recovered in an action of debt.

1 Section 10. Any person, aggrieved by the denial in whole or in part of a refund claimed  
2 under this Act, may, within thirty days after service of the notice of such denial by the secretary,  
3 demand a hearing, upon notice, before the secretary. The hearing shall be conducted pursuant  
4 to chapter 1-26.

5 Section 11. Any person, aggrieved by a decision of the secretary under this Act, may, within  
6 thirty days of receipt of written notice of the secretary's decision, make written application to  
7 the secretary for a hearing to be conducted pursuant to chapter 1-26. Hearings are to be  
8 conducted and appeals taken pursuant to the provisions of chapters 1-26 and 1-26D. A copy of  
9 the hearing examiner's proposed decision, findings of fact, and conclusions of law shall be  
10 served on all parties when furnished to the secretary. If the secretary, pursuant to chapter 1-26D,  
11 accepts the final decision of the hearing examiner, no appeal from a final decision of the  
12 secretary upon any additional tax to be paid may be taken unless any amount ordered paid by  
13 the secretary is paid or a bond filed to insure payment of the amount. However, if the final  
14 decision of the secretary, pursuant to chapter 1-26D, rejects or modifies the decision of the  
15 hearing examiner regarding the amount due, an appeal may be taken without payment of the  
16 amount ordered to be paid and without filing of a bond. If the secretary's decision is affirmed  
17 by the circuit court, no appeal may be taken unless any amount ordered to be paid by the  
18 secretary is paid or a bond is filed to insure payment of such amount.

19 Section 12. Any amount refunded pursuant to this Act for a production that is not completed  
20 within the time frames prescribed by this Act, including any extensions granted by the secretary,  
21 shall be returned to the state without interest. Any refunded amounts not returned pursuant to  
22 this section and all sums previously refunded to the claimant constitute a debt to the state and  
23 a lien in favor of the state upon all property and rights to property whether real or personal  
24 belonging to the claimant and may be recovered in an action of debt.

1 Section 13. This Act is repealed on June 30, 2011.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

282M0668

SENATE AGRICULTURE AND NATURAL RESOURCES

COMMITTEE ENGROSSED NO. **HB 1212** -

02/14/2006

Introduced by: Representative Jensen

1 FOR AN ACT ENTITLED, An Act to revise certain provisions related to limited big game  
2 hunting licenses for landowners.

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

4 Section 1. That § 41-6-19.3 be amended to read as follows:

5 41-6-19.3. ~~If a resident farmer or rancher who owns or leases the prescribed minimum~~  
6 ~~acreage of farm or ranch land to qualify for landowner preference, and who actually resides on~~  
7 ~~the land, or is an owner-operator of the land, or a member of the farmer or rancher's immediate~~  
8 ~~family also residing on the land has not received a big game license pursuant to § 41-6-19~~  
9 ~~during the west river prairie deer season, east river deer season, or west river firearm antelope~~  
10 ~~season set by the Game, Fish and Parks Commission pursuant to § 41-2-18, the person may~~  
11 ~~apply no earlier than twenty days prior to the commencement of the applicable season and~~  
12 ~~obtain one of the licenses made available in the unit in which the person qualifies for landowner~~  
13 ~~preference or as otherwise provided by rules promulgated by the commission pursuant to~~  
14 ~~chapter 1-26. No more than two limited permits may be applied for by each farm or ranch~~  
15 ~~household. Upon receipt of the application submitted on a form prescribed by the commission,~~



1 the Department of Game, Fish and Parks shall issue a limited permit that restricts the holder to  
2 the taking of one animal as designated on the permit only from the farm or ranch lands specified  
3 in the application. If the landowner or lessee also owns or leases land in a contiguous hunting  
4 unit, the applicant may specify those lands in adjacent units where the permit is to apply and  
5 may hunt on those described lands also. The holder of the permit may not take any big game  
6 animal from land owned or leased by other persons. If a resident farmer or rancher who owns  
7 or leases for agricultural purposes the minimum acreage of privately-owned farm or ranch land  
8 to qualify for landowner preference as prescribed by rules promulgated by the Game, Fish and  
9 Parks Commission and who actually resides on the land, or is an owner-operator of the land, has  
10 not received a big game license pursuant to § 41-6-19 that permits the harvest of a buck during  
11 the west river prairie deer season, east river deer season, or firearm antelope season set by the  
12 Game, Fish and Parks Commission pursuant to § 41-2-18, the farmer or rancher may obtain one  
13 any-deer license, one any-antelope license, one license that has one any-deer tag and one any-  
14 antlerless deer tag , or one any-antelope and one doe/kid antelope tag that is valid only on lands  
15 owned or leased by the farmer or rancher within any unit for the specified hunting season.

16 If a member of the immediate family of the farmer or rancher qualified to obtain a license  
17 under this section has not received a big game license pursuant to § 41-6-19 that permits the  
18 harvest of a buck during the west river prairie deer season, east river deer season, or firearm  
19 antelope season set by the Game, Fish and Parks Commission pursuant to § 41-2-18, the  
20 immediate family member may also obtain one any-deer license, one any-antelope license, one  
21 license that has one any-deer tag and one any-antlerless deer tag, or one any-antelope and one  
22 doe/kid antelope tag that is valid only on lands owned or leased by the resident farmer or  
23 rancher within any unit for the specified hunting season.

24 Upon receipt of the application prescribed by the department and applicable fee, the

1 Department of Game, Fish and Parks shall issue a limited license that restricts the holder to the  
2 taking of the big game animals as designated on the license only from the privately-owned farm  
3 or ranch lands owned or leased by the resident farmer or rancher. The holder of the license may  
4 not take any big game animal from land owned or leased by other persons.

5 Section 2. That § 41-6-19.4 be amended to read as follows:

6 41-6-19.4. For the purposes of issuance of the limited permit to ~~hunt deer~~ pursuant to § 41-  
7 6-19.3, the term "~~immediate family~~", immediate family, means the applicant, the applicant's  
8 spouse, and the applicant's children residing with the applicant or on land owned or leased by  
9 the resident farmer or rancher.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

400M0261

HOUSE TAXATION COMMITTEE ENGROSSED NO.

**SB 50 - 02/14/2006**

**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 Judiciary at the request of the Department of Revenue and Regulation

1 FOR AN ACT ENTITLED, An Act to make certain persons responsible for making tax returns  
2 and payment of tax debts.

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

4 Section 1. That § 10-33A-17 be amended to read as follows:

5 10-33A-17. Any person who:

- 6 (1) Makes any false or fraudulent return in attempting to defeat or evade the  
7 telecommunications gross receipts tax is guilty of a Class 6 felony;
- 8 (2) Fails to pay the telecommunications gross receipts tax due under this chapter within  
9 sixty days from the date the tax becomes due is guilty of a Class 1 misdemeanor;
- 10 (3) Fails to keep the records required by this chapter or refuses to exhibit these records  
11 to the department for the purpose of examination is guilty of a Class 1 misdemeanor;
- 12 (4) Fails to file a return required by this chapter within sixty days from the date the return  
13 is due is guilty of a Class 1 misdemeanor;
- 14 (5) Engages in business as a telecommunications company under this chapter without



1 obtaining a telecommunications gross receipts tax license is guilty of a Class 1  
2 misdemeanor;

3 (6) Engages in business as a telecommunications company under this chapter after the  
4 company's telecommunications gross receipts tax license has been revoked or  
5 canceled by the secretary is guilty of a Class 6 felony;

6 (7) Willfully violates any rule of the secretary for the administration and enforcement of  
7 the provisions of this chapter is guilty of a Class 1 misdemeanor;

8 (8) Violates either subdivision (2) or subdivision (4) of this section two or more times  
9 in any twelve-month period is guilty of a Class 6 felony; or

10 (9) Engages in business as a telecommunications company under this chapter without  
11 obtaining a telecommunications gross receipts tax license after having been notified  
12 in writing by the secretary that the telecommunications company is subject to the  
13 provisions of this chapter is guilty of a Class 6 felony. However, it is not a violation  
14 of this subdivision if the telecommunications company providing any  
15 telecommunications service files an application for a telecommunications gross  
16 receipts tax license and meets all lawful prerequisites for obtaining such license  
17 within three days from receipt of written notice from the secretary.

18 ~~For purposes of this section, the term, telecommunications company, includes corporate~~  
19 ~~officers having control, supervision of, or charged with the responsibility for making tax returns~~  
20 ~~or payments pursuant to this chapter. For purposes of this section, the term, person, includes an~~  
21 officer, member, member-manager, partner, general partner, or limited partner of an entity  
22 organized pursuant to Title 47 or 48 who has control or supervision of, or is charged with the  
23 responsibility for, making tax returns or payments pursuant to this chapter.

24 Section 2. That § 10-33A-18 be repealed.

1 ~~10-33A-18. If a corporation subject to the gross receipts tax under this chapter fails for any~~  
2 ~~reason to file the required returns or to pay the tax due, any of its officers having control, or~~  
3 ~~supervision of, or charged with the responsibility for making such returns and payments are~~  
4 ~~personally liable for such failure. The dissolution of a corporation does not discharge an officer's~~  
5 ~~liability for a prior failure of the corporation to make a return or remit the tax due. The sum due~~  
6 ~~for such a liability may be assessed and collected as provided by law.~~

7 ~~If any responsible corporate officer elects not to be personally liable for the failure to file~~  
8 ~~the required returns or to pay the tax due, the corporation shall provide the department with a~~  
9 ~~surety bond or certificate of deposit as security for payment of any tax that may become due.~~  
10 ~~The bond or certificate of deposit provided for in this section shall be in an amount equal to the~~  
11 ~~estimated annual gross receipts multiplied by the applicable sales or gross receipts tax rate. This~~  
12 ~~section does not apply to elected or appointed officials of a municipality if they are bonded~~  
13 ~~pursuant to §§ 9-14-6 and 9-14-6.1.~~

14 Section 3. That § 10-45-48.1 be amended to read as follows:

15 10-45-48.1. Any person who:

- 16 (1) Makes any false or fraudulent return in attempting to defeat or evade the tax imposed  
17 by this chapter is guilty of a Class 6 felony;
- 18 (2) Fails to pay tax due under this chapter within sixty days from the date the tax  
19 becomes due is guilty of a Class 1 misdemeanor;
- 20 (3) Fails to keep the records and books required by § 10-45-45 or refuses to exhibit these  
21 records to the secretary of revenue and regulation or his agents for the purpose of  
22 examination is guilty of a Class 1 misdemeanor;
- 23 (4) Fails to file a return required by this chapter within sixty days from the date the return  
24 is due is guilty of a Class 1 misdemeanor;

- 1 (5) Engages in business as a retailer under this chapter without obtaining a sales tax  
2 license is guilty of a Class 1 misdemeanor;
- 3 (6) Engages in business as a retailer under this chapter after his sales tax license has been  
4 revoked by the secretary of revenue and regulation is guilty of a Class 6 felony;
- 5 (7) Willfully violates any rule of the secretary of revenue and regulation for the  
6 administration and enforcement of the provisions of this chapter is guilty of a Class  
7 1 misdemeanor;
- 8 (8) Violates either subdivision (2) or subdivision (4) two or more times in any  
9 twelve-month period is guilty of a Class 6 felony;
- 10 (9) Engages in business as a retailer under this chapter without obtaining a sales tax  
11 license after having been notified in writing by the secretary of revenue and  
12 regulation that the person is a retailer subject to the provisions of the sales and use  
13 tax laws is guilty of a Class 6 felony. It is not a violation of this subdivision if the  
14 person engaging in business as a retailer files an application for a sales tax license  
15 and meets all lawful prerequisites for obtaining such license within three days from  
16 receipt of written notice from the secretary.

17 ~~For purposes of this section, the term, person, includes corporate officers having control,~~  
18 ~~supervision of or charged with the responsibility for making tax returns or payments pursuant~~  
19 ~~to § 10-45-55. For purposes of this section, the term, person, includes an officer, member,~~  
20 ~~member-manager, partner, general partner, or limited partner of an entity organized pursuant~~  
21 ~~to Title 47 or 48 who has control or supervision of, or is charged with the responsibility for,~~  
22 ~~making tax returns or payments pursuant to this chapter.~~

23 Section 4. That § 10-45-55 be repealed.

24 ~~10-45-55. If a corporation subject to tax under this chapter fails for any reason to file the~~

1 required returns or to pay the tax due, any of its officers having control, or supervision of, or  
2 charged with the responsibility for making such returns and payments shall be personally liable  
3 for such failure. The dissolution of a corporation shall not discharge an officer's liability for a  
4 prior failure of the corporation to make a return or remit the tax due. The sum due for such a  
5 liability may be assessed and collected as provided by law:

6 — If the corporate officers elect not to be personally liable for the failure to file the required  
7 returns or to pay the tax due, the corporation shall provide the Department of Revenue and  
8 Regulation with a surety bond or certificate of deposit as security for payment of any tax that  
9 may become due. The bond or certificate of deposit provided for in this section shall be in an  
10 amount equal to the estimated annual gross receipts multiplied by the applicable sales or excise  
11 tax rate. This section does not apply to elected or appointed officials of a municipality if they  
12 are bonded pursuant to §§ 9-14-6 and 9-14-6.1:

13 Section 5. That § 10-46-47.1 be repealed.

14 — 10-46-47.1. If a corporation subject to tax under this chapter fails for any reason to file the  
15 required returns or to pay the tax due, any of its officers having control, or supervision of, or  
16 charged with the responsibility for making such returns and payments shall be personally liable  
17 for such failure. The dissolution of a corporation shall not discharge an officer's liability for a  
18 prior failure of the corporation to make a return or remit the tax due. The sum due for such a  
19 liability may be assessed and collected as provided by law:

20 — If the corporate officers elect not to be personally liable for the failure to file the required  
21 returns or to pay the tax due, the corporation shall provide the Department of Revenue and  
22 Regulation with a surety bond or certificate of deposit as security for payment of any tax that  
23 may become due. The bond or certificate of deposit provided for in this section shall be in an  
24 amount equal to the estimated annual gross receipts multiplied by the applicable sales or excise

1 tax rate. This section does not apply to elected or appointed officials if they are bonded pursuant  
2 to ~~§§ 9-14-6 and 9-14-6.1~~.

3 Section 6. That § 10-46A-13 be repealed.

4 ~~— 10-46A-13. If a corporation subject to tax under this chapter fails for any reason to file the~~  
5 ~~required returns or to pay the tax due, any of its officers having control, or supervision of, or~~  
6 ~~charged with the responsibility for making such returns and payments shall be personally liable~~  
7 ~~for such failure. The dissolution of a corporation shall not discharge an officer's liability for a~~  
8 ~~prior failure of the corporation to make a return or remit the tax due. The sum due for such a~~  
9 ~~liability may be assessed and collected as provided by law.~~

10 ~~— If the corporate officers elect not to be personally liable for the failure to file the required~~  
11 ~~returns or to pay the tax due, the corporation shall provide the Department of Revenue and~~  
12 ~~Regulation with a surety bond or certificate of deposit as security for payment of any tax that~~  
13 ~~may become due. The bond or certificate of deposit provided for in this section shall be in an~~  
14 ~~amount equal to the estimated annual gross receipts multiplied by the applicable sales or excise~~  
15 ~~tax rate. This section does not apply to elected or appointed officials of a municipality if they~~  
16 ~~are bonded pursuant to §§ 9-14-6 and 9-14-6.1.~~

17 Section 7. That § 10-46A-13.1 be amended to read as follows:

18 10-46A-13.1. Any person who:

- 19 (1) Makes any false or fraudulent return in attempting to defeat or evade the tax imposed  
20 by this chapter is guilty of a Class 6 felony;
- 21 (2) Fails to pay tax due under this chapter within sixty days from the date the tax  
22 becomes due is guilty of a Class 1 misdemeanor;
- 23 (3) Fails to keep the records and books required by § 10-45-45 or refuses to exhibit these  
24 records to the secretary of revenue and regulation or his agents for the purpose of

- 1 examination is guilty of a Class 1 misdemeanor;
- 2 (4) Fails to file a return required by this chapter within sixty days from the date the return  
3 is due is guilty of a Class 1 misdemeanor;
- 4 (5) Engages in business under this chapter without obtaining a contractor's excise tax  
5 license is guilty of a Class 1 misdemeanor;
- 6 (6) Engages in business under this chapter after his contractor's excise tax license has  
7 been revoked by the secretary of revenue and regulation is guilty of a Class 6 felony;
- 8 (7) Violates either subdivision (2) or subdivision (4) of this section two or more times  
9 in any twelve-month period is guilty of a Class 6 felony;
- 10 (8) Engages in business under this chapter without obtaining a contractor's excise tax  
11 license after having been notified in writing by the secretary of revenue and  
12 regulation that the person is a contractor subject to the provisions of the contractors'  
13 excise tax laws is guilty of a Class 6 felony. It is not a violation of this subdivision  
14 if the person engaging in business files an application for a contractor's excise tax  
15 license and meets all lawful prerequisites for obtaining such license within three days  
16 from receipt of written notice from the secretary.

17 ~~For purposes of this section, the term, person, includes corporate officers having control,~~  
18 ~~supervision of or charged with the responsibility for making tax returns or payments pursuant~~  
19 ~~to § 10-46A-13. For purposes of this section, the term, person, includes an officer, member,~~  
20 ~~member-manager, partner, general partner, or limited partner of an entity organized pursuant~~  
21 ~~to Title 47 or 48 who has control or supervision of, or is charged with the responsibility for,~~  
22 ~~making tax returns or payments pursuant to this chapter.~~

23 Section 8. That § 10-46B-11 be repealed.

24 ~~10-46B-11. If a corporation subject to tax under this chapter fails for any reason to file the~~

1 ~~required returns or to pay the tax due, any of its officers having control, or supervision of, or~~  
2 ~~charged with the responsibility for making such returns and payments shall be personally liable~~  
3 ~~for such failure. The dissolution of a corporation shall not discharge an officer's liability for a~~  
4 ~~prior failure of the corporation to make a return or remit the tax due. The sum due for such a~~  
5 ~~liability may be assessed and collected as provided by law.~~

6 ~~— If the corporate officers elect not to be personally liable for the failure to file the required~~  
7 ~~returns or to pay the tax due, the corporation shall provide the Department of Revenue and~~  
8 ~~Regulation with a surety bond or certificate of deposit as security for payment of any tax that~~  
9 ~~may become due. The bond or certificate of deposit provided for in this section shall be in an~~  
10 ~~amount equal to the estimated annual gross receipts multiplied by the applicable sales or excise~~  
11 ~~tax rate. This section does not apply to elected or appointed officials of a municipality if they~~  
12 ~~are bonded pursuant to §§ 9-14-6 and 9-14-6.1.~~

13 Section 9. That § 10-46B-11.1 be amended to read as follows:

14 10-46B-11.1. Any person who:

- 15 (1) Makes any false or fraudulent return in attempting to defeat or evade the tax imposed  
16 by this chapter is guilty of a Class 6 felony;
- 17 (2) Fails to pay tax due under this chapter within sixty days from the date the tax  
18 becomes due is guilty of a Class 1 misdemeanor;
- 19 (3) Fails to keep the records and books required by § 10-45-45 or refuses to exhibit these  
20 records to the secretary of revenue and regulation or his agents for the purpose of  
21 examination is guilty of a Class 1 misdemeanor;
- 22 (4) Fails to file a return required by this chapter within sixty days from the date the return  
23 is due is guilty of a Class 1 misdemeanor;
- 24 (5) Engages in business under this chapter without obtaining a contractor's excise tax

- 1 license is guilty of a Class 1 misdemeanor;
- 2 (6) Engages in business under this chapter after his contractor's excise tax license has  
3 been revoked by the secretary of revenue and regulation is guilty of a Class 6 felony;
- 4 (7) Violates either subdivision (2) or subdivision (4) two or more times in any  
5 twelve-month period is guilty of a Class 6 felony;
- 6 (8) Engages in business under this chapter without obtaining a contractor's excise tax  
7 license after having been notified in writing by the secretary of revenue and  
8 regulation that the person is a contractor subject to the provisions of the contractors'  
9 excise tax laws is guilty of a Class 6 felony. It is not a violation of this subdivision  
10 if the person engaging in business files an application for a contractor's excise tax  
11 license and meets all lawful prerequisites for obtaining such license within three days  
12 from receipt of written notice from the secretary.

13 ~~For purposes of this section, the term, person, includes corporate officers having control,~~  
14 ~~supervision of or charged with the responsibility for making tax returns or payments pursuant~~  
15 ~~to § 10-46B-11. For purposes of this section, the term, person, includes an officer, member,~~  
16 ~~member-manager, partner, general partner, or limited partner of an entity organized pursuant~~  
17 ~~to Title 47 or 48 who has control or supervision of, or is charged with the responsibility for,~~  
18 ~~making tax returns or payments pursuant to this chapter.~~

19 Section 10. That § 10-47B-41 be repealed.

20 ~~10-47B-41. A corporation subject to the taxes imposed by this chapter and its corporate~~  
21 ~~officers are jointly and severally liable for the filing of reports or returns and the payment of tax,~~  
22 ~~penalty, and interest due. The dissolution of a corporation does not discharge an officer's~~  
23 ~~liability for a prior failure of the corporation to make a return or remit the tax due. An officer~~  
24 ~~subject to personal liability is not discharged from that liability upon vacating the office. An~~

1 ~~officer may be discharged from future liability upon notifying the secretary in writing. The sum~~  
2 ~~due for such a liability may be assessed and collected as provided by law.~~

3 Section 11. That chapter 10-59 be amended by adding thereto a NEW SECTION to read as  
4 follows:

5 If an entity organized pursuant to Title 47 or 48 fails for any reason to file the required  
6 returns or to pay the tax due, any person having control, or supervision of, or charged with the  
7 responsibility for making such returns and payments shall be personally liable for such failure.  
8 The dissolution of an entity organized pursuant to Title 47 or 48 does not discharge a person's  
9 liability for a prior failure of the entity to make a return or remit the tax due. The sum due for  
10 the liability may be assessed and collected as provided by law.

11 If a person who has control or supervision of, or is charged with the responsibility for  
12 making returns and payments of an entity organized pursuant to Title 47 or 48 elects not to be  
13 personally liable for the failure to file the required returns or to pay the tax due, the entity shall  
14 provide the department with a surety bond or certificate of deposit as security for payment of  
15 any tax that may become due. The bond or certificate of deposit provided for in this section shall  
16 be in an amount equal to the estimated annual gross receipts multiplied by the applicable sales  
17 or excise tax rate. This section does not apply to an elected or appointed official of a  
18 municipality if the official is bonded pursuant to §§ 9-14-6 and 9-14-6.1.

19 For purposes of this section, the term, person, includes an officer, member, member-  
20 manager, partner, general partner, or limited partner of an entity organized pursuant to Title 47  
21 or 48 who has control or supervision of, or is charged with the responsibility for, making tax  
22 returns or payments pursuant to this chapter.

23 Section 12. That § 10-59-1 be amended to read as follows:

24 10-59-1. The provisions of this chapter apply to any taxes or fees or persons subject to taxes

1 or fees imposed by, and to any civil or criminal investigation authorized by, chapters 10-33A,  
2 10-39, 10-39A, 10-39B, 10-43, 10-45, 10-45D, 10-46, 10-46A, 10-46B, 10-46C, 10-47B, 10-52,  
3 10-52A, 32-3, 32-3A, 32-5, 32-5B, 32-6B, 32-9, 32-10, and 34A-13 and §§ 22-25-48, 49-31-51,  
4 50-4-13 to 50-4-17, inclusive, and the provisions of chapter 10-45B.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

337M0215

## HOUSE JUDICIARY COMMITTEE ENGROSSED NO. **SB 69** - 02/15/2006

Introduced by: Senator Knudson and Representative Cutler

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to insurable interests  
2 and to declare an emergency.

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

4 Section 1. That § 58-10-4 be amended to read as follows:

5 58-10-4. Insurable interest with reference to personal insurance includes only interests as  
6 follows:

7 (1) For Interests in individuals related closely by blood, marriage, or by law, a substantial  
8 interest engendered by love and affection;

9 (2) For other persons, a lawful and substantial economic interest in having the life,  
10 health, or bodily safety of the individual insured continue, as distinguished from an  
11 interest which would arise only by, or would be enhanced in value by, the death,  
12 disablement, or injury of the individual insured;

13 (3) A person who is a party to a contract or option for the purchase or sale of an interest  
14 in a business partnership or firm, or of shares of stock of a closed corporation or of  
15 an interest in the shares, has an insurable interest in the life of each individual party



1 to the contract and for the purpose of the contract only, in addition to any insurable  
2 interest which may otherwise exist as to the life of the individual;

3 (4) A charitable organization that meets the requirements of section 501(c)3 of the  
4 Internal Revenue Code of 1986, as amended to January 1, 1992, and owns or  
5 purchases life insurance on an insured who consents to the ownership or purchase of  
6 the insurance has an insurable interest in the life of the insured;

7 (5) A financial institution, as defined in subdivision 10-43-1(4), to whom a debt is owed  
8 has an insurable interest in the life of the insured to the extent of the debt owed by  
9 the insured, irrespective of any statute of limitation regarding the enforceability of the  
10 debt;

11 (6) The trustee of a trust established by an individual settlor has an insurable interest in  
12 the life of that individual settlor, and has the same insurable interest in the life of any  
13 other individual as does such individual settlor. However, the settlor must be the  
14 insured or have an insurable interest as required by subdivisions (1) to (5), inclusive,  
15 of this section. The trustee of a trust has the same insurable interest in the life of any  
16 other individual as does any beneficiary of the trust with respect to proceeds of  
17 insurance on the life of such individual or any portion of such proceeds that are  
18 allocable to such beneficiary's interest in such trust. If multiple beneficiaries of a trust  
19 have an insurable interest in the life of the same individual, the trustee of such trust  
20 has the same aggregate insurable interest in such individual's life as such  
21 beneficiaries with respect to proceeds of insurance on the life of such individual or  
22 any portion of such proceeds that are allocable in the aggregate to such beneficiaries'  
23 interest in the trust. A trustee of a business trust has the same insurable interest in the  
24 life of any individual as does any beneficial owner in any individual or any beneficial

1           owners in the aggregate in any individual.

2           Section 2. That chapter 58-10 be amended by adding thereto a NEW SECTION to read as  
3 follows:

4           For purposes of subdivision 58-10-4(6), the term, trust, includes any trust, including a  
5 business trust, and the term, beneficiary, includes the interest of any beneficiary in a trust,  
6 including a beneficial owner of a business trust.

7           Section 3. That chapter 58-10 be amended by adding thereto a NEW SECTION to read as  
8 follows:

9           For purposes of subdivision 58-10-4(6), the term, business trust, means a business trust  
10 subject to chapter 47-14A or chapter 47-14B.

11          Section 4. That chapter 58-10 be amended by adding thereto a NEW SECTION to read as  
12 follows:

13          An insurance contract for which an insurable interest exists under subdivision 58-10-4(6),  
14 is a life insurance policy issued for delivery to a trust governed by South Dakota law.

15          Section 5. That chapter 58-10 be amended by adding thereto a NEW SECTION to read as  
16 follows:

17          The provisions of subdivision 58-10-4(6) and sections 2 to 4, inclusive, of this Act, are  
18 effective retroactively to November 2, 1889.

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

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

444M0013

## HOUSE AGRICULTURE AND NATURAL RESOURCES COMMITTEE ENGROSSED NO. **SB 73** - 02/16/2006

Introduced by: Senators Olson (Ed), Bogue, Duniphan, Greenfield, Kelly, Kooistra, Lintz,  
and McNenny and Representatives Vehle, Kroger, Sebert, and Van Etten

1 FOR AN ACT ENTITLED, An Act to allow certain federally activated military personnel to be  
2 issued replacement elk, bighorn sheep, or mountain goat hunting licenses.

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

4 Section 1. That chapter 41-6 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 Any member of the national guard or other reserve component of the armed forces of the  
7 United States who was issued an elk, bighorn sheep, or mountain goat license pursuant to § 41-  
8 6-19.6, but was ordered into active federal service in the armed forces of the United States  
9 before the license could be used, may be issued a replacement license as provided in this  
10 section. After the member has been released from active federal service, the member may  
11 request and shall be issued the applicable replacement bighorn sheep, mountain goat, or elk  
12 license under the same or substantially similar terms and conditions as those under which the  
13 original license was issued. The replacement license shall be issued for the hunting season  
14 immediately following the member's release from active federal service. However, if the release  
15 occurs during the hunting season, the member may choose either to obtain the replacement



- 1 license for the remainder of the current season or to obtain the replacement license for use
- 2 during the next succeeding full season. The replacement license expires at the end of the season
- 3 during which it is used.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

488M0421

HOUSE COMMERCE COMMITTEE ENGROSSED NO.

**SB 81 - 02/16/2006**

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

Introduced by: Senators Schoenbeck, Abdallah, Duniphan, Kelly, Kloucek, Koetzle, McCracken, Moore, and Olson (Ed) and Representatives Cutler, Haley, Jensen, McCoy, Murschel, Nelson, and Roberts

1 FOR AN ACT ENTITLED, An Act to prohibit the acquiring or selling of certain  
2 communications records.

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

4 Section 1. Terms used in this Act mean:

5 (1) "Communications provider," a provider that offers telecommunications services for  
6 a fee to the public, regardless of the facilities used, or a provider of IP-enabled voice  
7 service;

8 (2) "Confidential communications records information," information that relates to the  
9 quantity, technical configuration, type, destination, incoming calls, outgoing calls,  
10 text messaging, location, or amount of use of a service offered by a communications  
11 provider subscribed to by any customer of that communications provider which is  
12 made available to a communications provider solely by virtue of the relationship  
13 between the communications provider and the customer, or information contained  
14 in any bill related to the product or service offered by a communications provider and



1 received by any customer of the communications provider;

2 (3) "IP-enabled voice service," the provision of real-time two-way voice communications  
3 offered to the public, transmitted through customer premises equipment using  
4 transmission control protocol/internet protocol (TCP/IP), or a successor protocol, for  
5 a fee, whether part of a bundle of services or separately, with two-way  
6 interconnection capability such that the service can originate traffic to, and terminate  
7 traffic from, a public switched telephone network.

8 Section 2. No person may obtain, or attempt to obtain, confidential communications records  
9 information from a communications provider, without authorization from the customer to whom  
10 such confidential communications records information relates, by knowingly and intentionally:

11 (1) Making false or fraudulent statements or representations to an employee of a  
12 communications provider;

13 (2) Making false or fraudulent statements or representations to a customer of a  
14 communications provider;

15 (3) Providing false documentation to a covered entity knowing that the documentation  
16 is false; or

17 (4) Accessing customer accounts of a communications provider via the internet.

18 A violation of this section is a Class 1 misdemeanor.

19 Section 3. No person may knowingly and intentionally sell, or attempt to sell, confidential  
20 communications records information from a communications provider without authorization  
21 from the customer to whom such confidential communications records information relates. A  
22 violation of this section is a Class 6 felony.

23 Section 4. This Act may not be construed to prevent any action by a law enforcement  
24 agency, or any officer, employee, or agent of a law enforcement agency, to obtain confidential

1 communications records information from a communications provider pursuant to a subpoena  
2 or court order.

3 Section 5. This Act does not prohibit a communications provider, including any affiliate or  
4 subsidiary of a communications provider, from obtaining, using, disclosing, or permitting access  
5 to any confidential communications records information, either directly or indirectly through  
6 its agents as otherwise authorized by law.

7 Section 6. This Act does not prohibit a communications provider from obtaining, using,  
8 disclosing, or permitting access to any confidential communications records information in  
9 connection with the sale or transfer of all or part of its business, the purchase or acquisition of  
10 all or part of a business, or the migration of a customer from one communications provider to  
11 another.

12 Section 7. Any customer who claims to have been adversely affected by any act or practice  
13 declared to be unlawful by section 2 or 3 of this Act may bring a civil action against the person  
14 who violated section 2 or 3 of this Act for the recovery of twice the actual damages suffered or  
15 five hundred dollars, whichever is greater, as a result of the willful act or practice. In addition,  
16 the customer may collect court costs and reasonable attorney fees expended by the customer to  
17 bring an action under this section.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

596M0260      **SENATE EDUCATION COMMITTEE ENGROSSED NO.**  
**SB 83 - 01/24/2006**

Introduced by: Senators Knudson, Adelstein, Dempster, Hansen (Tom), Hanson (Gary), Kelly, Kooistra, Nesselhuf, and Olson (Ed) and Representatives Thompson, Bradford, Cutler, Elliott, Faehn, Garnos, Gassman, Glover, Hennies, McCoy, McLaughlin, Miles, Murschel, Nelson, Olson (Ryan), Roberts, Street, Tornow, and Van Norman

1    FOR AN ACT ENTITLED, An Act to increase the length of time for which nationally certified  
2        teachers may receive stipends.

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

4        Section 1. That § 13-42-26 be amended to read as follows:

5        13-42-26. The Department of Education shall establish a program to reimburse public school  
6    teachers for the application and processing fee for the National Board for Professional Teaching  
7    Standards certification process. The reimbursement shall include any federal funds that may be  
8    available through a candidate subsidy program. The reimbursement shall be paid upon receipt  
9    of documentation that the teacher successfully completed all certification requirements and was  
10    awarded the credential.

11        In addition to the reimbursement provided pursuant to this section, a teacher who teaches  
12    in a public school and who has obtained certification by the National Board for Professional  
13    Teaching Standards shall receive a payment of two thousand dollars per year for five years. The



1 stipend shall be paid as follows:

2 (1) One thousand dollars from the Department of Education;

3 (2) One thousand dollars from the school district where the teacher is employed.

4 Once the first five years is complete, the school district that employs the teacher may opt to  
5 continue payments during the period of the next five years. If, during that period, the school  
6 district pays the teacher a stipend, the Department of Education shall also pay the teacher a  
7 stipend equal to the amount offered by the school district, up to a maximum of one thousand  
8 dollars. However, the department is not required to pay a teacher a stipend pursuant to this  
9 section during years six to ten unless the school district employing the teacher opts to pay a  
10 stipend.

11 The Board of Education shall adopt rules, pursuant to chapter 1-26, to establish guidelines  
12 necessary to implement the program.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

418M0191      SENATE COMMERCE COMMITTEE ENGROSSED NO.  
**SB 89 - 01/26/2006**

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

Introduced by: Senators McCracken, Gray, and Sutton (Dan) and Representatives McLaughlin, Boomgarden, Bradford, Krebs, Rounds, and Thompson

1    FOR AN ACT ENTITLED, An Act to require the Division of Insurance to study the offering  
2        of assisted living facility benefits to certain persons with long-term care insurance.

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

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

6        The Division of Insurance shall conduct a study of long-term care insurance in this state to  
7    determine the extent to which long-term care policies have been issued which do not contain  
8    assisted living facility benefits. The study shall include information as to the cost of adding  
9    assisted living facility benefits to long-term care policies and the potential premium impact it  
10   may have on other insureds. A report shall be made to the Legislature no later than December 1,  
11   2006.



# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

373M0374

## SENATE ENGROSSED NO. **SB 99** - 01/26/2006

Introduced by: Senators Schoenbeck, Abdallah, Adelstein, Bartling, Duniphan, Hansen (Tom), Kelly, Koetzle, McCracken, Moore, Olson (Ed), and Sutton (Dan) and Representatives Kraus, Cutler, Dykstra, Faehn, Haley, Halverson, Krebs, McCoy, McLaughlin, Michels, Murschel, O'Brien, and Olson (Ryan)

1 FOR AN ACT ENTITLED, An Act to establish a task force to study sexual assault and to  
2 provide for its composition, scope, and administration.

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

4 Section 1. There is hereby established the Task Force to Study Sexual Assault. The task  
5 force shall consist of fifteen members. Six members shall be appointed by the speaker of the  
6 House of Representatives, four of whom shall be legislators, and six members shall be  
7 appointed by the president pro tempore of the Senate, four of whom shall be legislators, and  
8 three members shall be appointed by the Governor. Not all members appointed by each  
9 appointive power may belong to the same political party. The initial appointments shall be made  
10 no later than thirty days after the effective date of this Act. If there is a vacancy on the task  
11 force, the vacancy shall be filled in the same manner as the original appointment. The  
12 appointments shall include a law enforcement official, victim advocate, medical personnel,  
13 survivor of sexual assault, and representative of the Division of Criminal Investigation, the  
14 Department of Health, and the Department of Social Services.



1       Section 2. The task force shall be under the supervision of the Executive Board of the  
2       Legislative Research Council and staffed and funded as an interim legislative committee. The  
3       Executive Board shall appoint the chair and the vice chair from among the legislators appointed  
4       to the task force.

5       Section 3. The task force shall gather the data and information regarding sexual assault cases  
6       in the following areas: reporting to law enforcement, number and types of cases, investigations,  
7       available medical treatment, collaboration among agencies, prevention efforts, and emergency  
8       responses. The task force shall make recommendations to assist local entities in responding to  
9       and preventing sexual assault cases. The task force shall submit its final report to the Governor  
10      and the Legislature no later than December 1, 2006.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

717M0561

SENATE COMMERCE COMMITTEE ENGROSSED NO.

**SB 130 - 01/31/2006**

Introduced by: Senators Dempster, Abdallah, and Bogue and Representatives Rave, Hennies,  
and Rhoden

1 FOR AN ACT ENTITLED, An Act to impose the 911 monthly telephone surcharge to prepaid  
2 telephone calling services.

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

4 Section 1. That § 34-45-1 be amended to read as follows:

5 34-45-1. Terms used in §§ 34-45-1 to 34-45-17, inclusive, mean:

6 (1) "Basic 911," any service which provides the user of a public telephone system the  
7 ability to reach a public safety answering point to report police, fire, medical, or other  
8 emergency situations by dialing 911;

9 (2) "Enhanced 911," any emergency telephone system which provides the user of a  
10 public telephone system the ability to reach a public safety answering point by dialing  
11 the digits 911, and which routes an incoming 911 call to the appropriate public safety  
12 answer point in a 911 service area and which automatically displays the name,  
13 address, and telephone number of an incoming 911 call on a video monitor at the  
14 appropriate public safety answer point;

15 (3) "Governing body," the board of county commissioners of a county or the city council



1 or other governing body of a county or municipality or the board of directors of a  
2 special district;

3 (4) "Local exchange access company," any franchised telephone company engaged in  
4 providing telecommunications services between points within a local calling area;

5 (5) "Local exchange access lines," any telephone line or cellular telephone that connects  
6 a telephone subscriber to the local switching office and has the capability of reaching  
7 local public safety service agencies;

8 (6) "911 emergency reporting system" or "911 system," any telephone system consisting  
9 of network, database, and on-premises equipment which utilizes the single three-digit  
10 number 911 for reporting police, fire, medical or other emergency situation;

11 (7) "911 emergency surcharge," any charge set by the governing body and assessed on  
12 each local exchange access line which physically terminates within the governing  
13 body's designated 911 service area. For a mobile telecommunications service, the  
14 term, 911 emergency surcharge, means any charge set by the governing body and  
15 assessed per cellular telephone identified within the governing body's designated 911  
16 service area as determined by the customer's place of primary use as defined in 4  
17 U.S.C. § 124 as in effect on July 28, 2000. Notwithstanding any other provision of  
18 this chapter and for purposes of the surcharge imposed by this chapter, the surcharge  
19 imposed upon mobile telecommunication services shall be administered in  
20 accordance with 4 U.S.C. §§ 116-126 as in effect on July 28, 2000. For prepaid  
21 wireless telephone calling services, the term, 911 emergency surcharge, means any  
22 charge set by the governing body and assessed per month of service purchased within  
23 the governing body's designated 911 service area;

24 (8) "Nonrecurring costs," any capital and start-up expenditure for telecommunications

1 equipment, software, database, initial training, and the purchase or lease of subscriber  
2 names, addresses and telephone information for the local exchange access company;

3 (8A) "Prepaid wireless telephone service," any wireless telephone service that is activated  
4 in advance by payment for a finite dollar amount of service or for a finite number of  
5 minutes that terminate either upon use by any person and delivery by the wireless  
6 provider of an agreed amount of service corresponding to the total dollar amount paid  
7 in advance or within a certain period of time following the initial purchase or  
8 activation, unless an additional payment is made;

9 (9) "Public agency," any municipality, county, public district, or public authority located  
10 in whole or in part within this state which provides or has the authority to provide fire  
11 fighting, law enforcement, ambulance, emergency medical, or other emergency  
12 services;

13 (10) "Public safety answering point," any twenty-four hour communications facility which  
14 receives all 911 service calls and reroutes the requestor or information to appropriate  
15 public or private safety agencies;

16 (11) "Recurring costs," any network access fee and other telephone charges, software,  
17 equipment, database management, maintenance, charges to maintain database of  
18 subscriber names, addresses, and telephone information from the local exchange  
19 access company. Recurring costs may include personnel expenses for a public safety  
20 answering point and any other costs directly related to the operation of the 911  
21 service;

22 (12) "Service supplier," any person or entity who provides or offers to provide 911 system  
23 equipment, installation, maintenance, or exchange access services within the 911  
24 service access area; and

1 (13) "Service user," any person who is provided local access exchange telephone service  
2 in this state.

3 Section 2. That chapter 34-45 be amended by adding thereto a NEW SECTION to read as  
4 follows:

5 Each prepaid wireless telephone calling service provider shall remit the surcharge amount  
6 on each account for which service has been paid and not yet used to the governing body each  
7 calendar quarter pursuant to § 34-45-8. The surcharge amount shall be based on the place at  
8 which the customer paid for the wireless telephone that is being used in connection with the  
9 prepaid minutes or other units of usage. However, if that place is unknown to the provider, the  
10 surcharge amount shall be based on the location associated with the wireless telephone number.  
11 The prepaid wireless telephone calling service provider may deduct units of usage equivalent  
12 to the amount of the surcharge from the unused telecommunication service, if the provider has  
13 so notified the purchaser at or before the time of purchase.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

831M0464

SENATE JUDICIARY COMMITTEE ENGROSSED NO.

**SB 138** - 02/08/2006

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

Introduced by: Senators Adelstein, Broderick, and Duniphan and Representatives Hennies, Howie, McLaughlin, and Van Etten

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the appointment of  
2 an agent to receive any legal process.

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

4 Section 1. That § 15-7-6 be amended to read as follows:

5 15-7-6. The use and operation by a resident of this state or ~~his~~ the resident's agent, or by a  
6 nonresident or ~~his~~ the nonresident's agent of a motor vehicle within the State of South Dakota,  
7 shall be deemed an irrevocable appointment by ~~such~~ the resident or ~~his~~ the resident's agent when  
8 ~~he~~ the resident has been absent from this state continuously for ~~six months~~ ninety days or more  
9 following a motor vehicle accident, or by ~~such~~ the nonresident or ~~his~~ the nonresident's agent at  
10 any time, of the secretary of state of South Dakota to be his or her true and lawful attorney upon  
11 whom may be served all legal process in any action or proceeding against ~~him~~ the resident or  
12 nonresident or his or her personal representative growing out of such use and operation of a  
13 motor vehicle within this state, resulting in damages or loss to person or property, whether the  
14 damage or loss occurs on a highway or on abutting public or private property. ~~Such~~ The



1 appointment is binding upon the nonresident's personal representative. ~~Such~~ The use or  
2 operation of a motor vehicle by ~~such~~ the resident or nonresident is a signification of ~~his~~ the  
3 resident's or nonresident's agreement that any such process in any action against ~~him~~ the resident  
4 or nonresident or his or her personal representative which is so served, shall be of the same legal  
5 force and validity as if served upon ~~him~~ the resident or nonresident personally or on ~~his~~ the  
6 resident's or nonresident's personal representative.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

308M0277

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **SB 142** - 02/15/2006

Introduced by: Senators Gant, Broderick, Dempster, Gray, Hanson (Gary), Kloucek, and McNenny and Representatives Rausch, Elliott, Garnos, Klaudt, McCoy, O'Brien, Vehle, and Weems

1 FOR AN ACT ENTITLED, An Act to direct the Office of the Attorney General to study open  
2 government issues in South Dakota.

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

4 Section 1. The attorney general is hereby directed to study open government issues in South  
5 Dakota. The study shall address school district, city, county, and state government entities and  
6 their actions, and shall specifically address which matters are open to the public and which are  
7 not. The attorney general shall report findings and recommendations to the executive board of  
8 the Legislative Research Council by June 30, 2007.



# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

543M0472

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **SB 165** - 02/03/2006

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

Introduced by: Senators Koskan, Abdallah, Adelstein, Bartling, Bogue, Dempster, Earley, Gant, Greenfield, Hanson (Gary), Kelly, Knudson, McCracken, Moore, Napoli, Olson (Ed), Schoenbeck, and Sutton (Duane) and Representatives Dykstra, Brunner, Davis, Dennert, Frost, Garnos, Gassman, Hackl, Hanks, Hargens, Haverly, Hennies, Jensen, Jerke, Klautd, Koistinen, Michels, Novstrup, Putnam, Rhoden, Roberts, Turbiville, Weems, and Wick

1 FOR AN ACT ENTITLED, An Act to appropriate money to the South Dakota Energy  
2 Infrastructure Authority and declare an emergency.

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

4 Section 1. There is hereby appropriated from the state general fund the sum of two hundred  
5 forty-seven thousand dollars (\$247,000), or so much thereof as may be necessary, to the  
6 Department of Tourism and State Development to be used for the operations of the South  
7 Dakota Energy Infrastructure Authority.

8 Section 2. The executive director of the South Dakota Energy Infrastructure Authority shall  
9 approve vouchers and the state auditor shall draw warrants to pay expenditures authorized by  
10 this Act.

11 Section 3. Any amount appropriated in this Act not lawfully expended or obligated by  
12 June 30, 2007, shall revert in accordance with § 4-8-21.



1       Section 4. Whereas, this Act is necessary for the support of the state government and its  
2 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in  
3 full force and effect from and after its passage and approval.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

292M0432      **SENATE COMMERCE COMMITTEE ENGROSSED NO.**  
**SB 166 - 01/31/2006**

Introduced by: Senators Knudson and Bogue and Representatives O'Brien and Cutler

1    FOR AN ACT ENTITLED, An Act to adopt the Uniform Athlete Agents Act.

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

3        Section 1. This Act may be cited as the Uniform Athlete Agents Act.

4        Section 2. In this Act:

5        (1)    "Agency contract," an agreement in which a student-athlete authorizes a person to  
6            negotiate or solicit on behalf of the student-athlete a professional-sports-services  
7            contract or an endorsement contract;

8        (2)    "Athlete agent," an individual who enters into an agency contract with a student-  
9            athlete or, directly or indirectly, recruits or solicits a student-athlete to enter into an  
10          agency contract. The term includes an individual who represents to the public that the  
11          individual is an athlete agent. The term does not include a spouse, parent, sibling,  
12          grandparent, or guardian of the student-athlete or an individual acting solely on  
13          behalf of a professional sports team or professional sports organization;

14        (3)    "Athletic director," an individual responsible for administering the overall athletic  
15          program of an educational institution or, if an educational institution has separately



1 administered athletic programs for male students and female students, the athletic  
2 program for males or the athletic program for females, as appropriate;

3 (4) "Contact," a communication, direct or indirect, between an athlete agent and a  
4 student-athlete, to recruit or solicit the student-athlete to enter into an agency  
5 contract;

6 (5) "Endorsement contract," an agreement under which a student-athlete is employed or  
7 receives consideration to use on behalf of the other party any value that the student-  
8 athlete may have because of publicity, reputation, following, or fame obtained  
9 because of athletic ability or performance;

10 (6) "Intercollegiate sport," a sport played at the collegiate level for which eligibility  
11 requirements for participation by a student-athlete are established by a national  
12 association for the promotion or regulation of collegiate athletics;

13 (7) "Person," an individual, corporation, business trust, estate, trust, partnership, limited  
14 liability company, association, joint venture, government; governmental subdivision,  
15 agency, or instrumentality; public corporation, or any other legal or commercial  
16 entity;

17 (8) "Professional-sports-services contract" an agreement under which an individual is  
18 employed, or agrees to render services, as a player on a professional sports team, with  
19 a professional sports organization, or as a professional athlete;

20 (9) "Record," information that is inscribed on a tangible medium or that is stored in an  
21 electronic or other medium and is retrievable in perceivable form;

22 (10) "Registration," registration as an athlete agent pursuant to this Act;

23 (11) "State," a state of the United States, the District of Columbia, Puerto Rico, the United  
24 States Virgin Islands, or any territory or insular possession subject to the jurisdiction

1 of the United States;

2 (12) "Student-athlete," an individual who engages in, is eligible to engage in, or may be  
3 eligible in the future to engage in, any intercollegiate sport. If an individual is  
4 permanently ineligible to participate in a particular intercollegiate sport, the  
5 individual is not a student-athlete for purposes of that sport.

6 Section 3. (a) By acting as an athlete agent in this state, a nonresident individual appoints  
7 the secretary of state as the individual's agent for service of process in any civil action in this  
8 state related to the individual's acting as an athlete agent in this state.

9 (b) The secretary of the Department of Revenue and Regulation may issue subpoenas for any  
10 material that is relevant to the administration of this Act.

11 Section 4. (a) Except as otherwise provided in subsection (b), an individual may not act as  
12 an athlete agent in this state without holding a certificate of registration under section 6 or 8 of  
13 this Act.

14 (b) Before being issued a certificate of registration, an individual may act as an athlete agent  
15 in this state for all purposes except signing an agency contract, if:

16 (1) A student-athlete or another person acting on behalf of the student-athlete initiates  
17 communication with the individual; and

18 (2) Within seven days after an initial act as an athlete agent, the individual submits an  
19 application for registration as an athlete agent in this state.

20 (c) An agency contract resulting from conduct in violation of this section is void and the  
21 athlete agent shall return any consideration received under the contract.

22 Section 5. (a) An applicant for registration shall submit an application for registration to the  
23 secretary of state in a form prescribed by the secretary of state. An application filed under this  
24 section is a public record. The application must be in the name of an individual and, except as

1 otherwise provided in subsection (b), signed or otherwise authenticated by the applicant under  
2 penalty of perjury and state or contain:

3 (1) The name of the applicant and the address of the applicant's principal place of  
4 business;

5 (2) The name of the applicant's business or employer, if applicable;

6 (3) Any business or occupation engaged in by the applicant for the five years next  
7 preceding the date of submission of the application;

8 (4) A description of the applicant's:

9 (A) Formal training as an athlete agent;

10 (B) Practical experience as an athlete agent; and

11 (C) Educational background relating to the applicant's activities as an athlete  
12 agent;

13 (5) The names and addresses of three individuals not related to the applicant who are  
14 willing to serve as references;

15 (6) The name, sport, and last known team for each individual for whom the applicant  
16 acted as an athlete agent during the five years next preceding the date of submission  
17 of the application;

18 (7) The names and addresses of all persons who are:

19 (A) With respect to the athlete agent's business if it is not a corporation, the  
20 partners, members, officers, managers, associates, or profit-sharers of the  
21 business; and

22 (B) With respect to a corporation employing the athlete agent, the officers,  
23 directors, and any shareholder of the corporation having an interest of five  
24 percent or greater;

- 1       (8) Whether the applicant or any person named pursuant to paragraph (7) has been  
2 convicted of a crime that, if committed in this state, would be a crime involving  
3 moral turpitude or a felony, and identify the crime;
- 4       (9) Whether there has been any administrative or judicial determination that the applicant  
5 or any person named pursuant to paragraph (7) has made a false, misleading,  
6 deceptive, or fraudulent representation;
- 7       (10) Any instance in which the conduct of the applicant or any person named pursuant to  
8 paragraph (7) resulted in the imposition of a sanction, suspension, or declaration of  
9 ineligibility to participate in an interscholastic or intercollegiate athletic event on a  
10 student-athlete or educational institution;
- 11       (11) Any sanction, suspension, or disciplinary action taken against the applicant or any  
12 person named pursuant to paragraph (7) arising out of occupational or professional  
13 conduct; and
- 14       (12) Whether there has been any denial of an application for, suspension or revocation of,  
15 or refusal to renew, the registration or licensure of the applicant or any person named  
16 pursuant to paragraph (7) as an athlete agent in any state.
- 17       (b) An individual who has submitted an application for, and holds a certificate of,  
18 registration or licensure as an athlete agent in another state, may submit a copy of the  
19 application and certificate in lieu of submitting an application in the form prescribed pursuant  
20 to subsection (a). The secretary of state shall accept the application and the certificate from the  
21 other state as an application for registration in this state if the application to the other state:
- 22       (1) Was submitted in the other state within six months next preceding the submission of  
23 the application in this state and the applicant certifies that the information contained  
24 in the application is current;

1 (2) Contains information substantially similar to or more comprehensive than that  
2 required in an application submitted in this state; and

3 (3) Was signed by the applicant under penalty of perjury.

4 Section 6. (a) Except as otherwise provided in subsection (b), the secretary of the  
5 Department of Revenue and Regulation shall issue a certificate of registration to an individual  
6 who complies with section 5(a) of this Act or whose application has been accepted under section  
7 5(b) of this Act. The secretary of the Department of Revenue and Regulation shall submit a copy  
8 of each certificate of registration issued to the Office of the Secretary of State.

9 (b) The secretary of the Department of Revenue and Regulation may refuse to issue a  
10 certificate of registration if the secretary determines that the applicant has engaged in conduct  
11 that has a significant adverse effect on the applicant's fitness to act as an athlete agent. In making  
12 the determination, the secretary may consider whether the applicant has:

13 (1) Been convicted of a crime that, if committed in this state, would be a crime  
14 involving moral turpitude or a felony;

15 (2) Made a materially false, misleading, deceptive, or fraudulent representation in the  
16 application or as an athlete agent;

17 (3) Engaged in conduct that would disqualify the applicant from serving in a fiduciary  
18 capacity;

19 (4) Engaged in conduct prohibited by section 14 of this Act;

20 (5) Had a registration or licensure as an athlete agent suspended, revoked, or denied or  
21 been refused renewal of registration or licensure as an athlete agent in any state;

22 (6) Engaged in conduct the consequence of which was that a sanction, suspension, or  
23 declaration of ineligibility to participate in an interscholastic or intercollegiate  
24 athletic event was imposed on a student-athlete or educational institution; or

1 (7) Engaged in conduct that significantly adversely reflects on the applicant's credibility,  
2 honesty, or integrity.

3 (c) In making a determination under subsection (b), the secretary of the Department of  
4 Revenue and Regulation shall consider:

5 (1) How recently the conduct occurred;

6 (2) The nature of the conduct and the context in which it occurred; and

7 (3) Any other relevant conduct of the applicant.

8 (d) An athlete agent may apply to renew a registration by submitting an application for  
9 renewal in a form prescribed by the secretary of state. An application filed under this section is  
10 a public record. The application for renewal must be signed by the applicant under penalty of  
11 perjury and must contain current information on all matters required in an original registration.

12 (e) An individual who has submitted an application for renewal of registration or licensure  
13 in another state, in lieu of submitting an application for renewal in the form prescribed pursuant  
14 to subsection (d), may file a copy of the application for renewal and a valid certificate of  
15 registration or licensure from the other state. The secretary of state shall accept the application  
16 for renewal from the other state as an application for renewal in this state if the application to  
17 the other state:

18 (1) Was submitted in the other state within six months next preceding the filing in this  
19 state and the applicant certifies the information contained in the application for  
20 renewal is current;

21 (2) Contains information substantially similar to or more comprehensive than that  
22 required in an application for renewal submitted in this state; and

23 (3) Was signed by the applicant under penalty of perjury.

24 (f) A certificate of registration or a renewal of a registration is valid for two years.

1 Section 7. (a) The secretary of the Department of Revenue and Regulation may suspend,  
2 revoke, or refuse to renew a registration for conduct that would have justified denial of  
3 registration under section 6(b) of this Act.

4 (b) The secretary of the Department of Revenue and Regulation may deny, suspend, revoke,  
5 or refuse to renew a certificate of registration or licensure only after proper notice and an  
6 opportunity for a hearing. The secretary shall provide notice of such hearing and any action  
7 taken in response to the hearing to the Office of the Secretary of State. The Administrative  
8 Procedures Act applies to this Act.

9 Section 8. The secretary of the Department of Revenue and Regulation may issue a  
10 temporary certificate of registration while an application for registration or renewal of  
11 registration is pending.

12 Section 9. An application for registration or renewal of registration must be accompanied  
13 by a fee in the following amount:

- 14 (1) One hundred dollars for an initial application for registration;  
15 (2) Fifty dollars for an application for registration based upon a certificate of registration  
16 or licensure issued by another state;  
17 (3) Twenty-five dollars for an application for renewal of registration; or  
18 (4) Twenty-five dollars for an application for renewal of registration based upon an  
19 application for renewal of registration or licensure submitted in another state.

20 All moneys received pursuant to this section shall be deposited in the state general fund.

21 Section 10. (a) An agency contract must be in a record, signed or otherwise authenticated  
22 by the parties.

23 (b) An agency contract must state or contain:

- 24 (1) The amount and method of calculating the consideration to be paid by the student-

1 athlete for services to be provided by the athlete agent under the contract and any  
2 other consideration the athlete agent has received or will receive from any other  
3 source for entering into the contract or for providing the services;

4 (2) The name of any person not listed in the application for registration or renewal of  
5 registration who will be compensated because the student-athlete signed the agency  
6 contract;

7 (3) A description of any expenses that the student-athlete agrees to reimburse;

8 (4) A description of the services to be provided to the student-athlete;

9 (5) The duration of the contract; and

10 (6) The date of execution.

11 (c) An agency contract must contain, in close proximity to the signature of the student-  
12 athlete, a conspicuous notice in boldface type in capital letters stating:

13 **WARNING TO STUDENT-ATHLETE**

14 **IF YOU SIGN THIS CONTRACT:**

15 (1) **YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A STUDENT-  
16 ATHLETE IN YOUR SPORT;**

17 (2) **IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72 HOURS AFTER  
18 ENTERING INTO THIS CONTRACT, BOTH YOU AND YOUR ATHLETE  
19 AGENT MUST NOTIFY YOUR ATHLETIC DIRECTOR; AND**

20 (3) **YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER SIGNING  
21 IT. CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE YOUR  
22 ELIGIBILITY.**

23 (d) An agency contract that does not conform to this section is voidable by the student-  
24 athlete. If a student-athlete voids an agency contract, the student-athlete is not required to pay

1 any consideration under the contract or to return any consideration received from the athlete  
2 agent to induce the student-athlete to enter into the contract.

3 (e) The athlete agent shall give a record of the signed or otherwise authenticated agency  
4 contract to the student-athlete at the time of execution.

5 Section 11. (a) Within seventy-two hours after entering into an agency contract or before the  
6 next scheduled athletic event in which the student-athlete may participate, whichever occurs  
7 first, the athlete agent shall give notice in a record of the existence of the contract to the athletic  
8 director of the educational institution at which the student-athlete is enrolled or the athlete agent  
9 has reasonable grounds to believe the student-athlete intends to enroll.

10 (b) Within seventy-two hours after entering into an agency contract or before the next  
11 athletic event in which the student-athlete may participate, whichever occurs first, the student-  
12 athlete shall inform the athletic director of the educational institution at which the student-  
13 athlete is enrolled that he or she has entered into an agency contract.

14 Section 12. (a) A student-athlete may cancel an agency contract by giving notice of the  
15 cancellation to the athlete agent in a record within fourteen days after the contract is signed.

16 (b) A student-athlete may not waive the right to cancel an agency contract.

17 (c) If a student-athlete cancels an agency contract, the student-athlete is not required to pay  
18 any consideration under the contract or to return any consideration received from the athlete  
19 agent to induce the student-athlete to enter into the contract.

20 Section 13. (a) An athlete agent shall retain the following records for a period of five years:

- 21 (1) The name and address of each individual represented by the athlete agent;
- 22 (2) Any agency contract entered into by the athlete agent; and
- 23 (3) Any direct costs incurred by the athlete agent in the recruitment or solicitation of a  
24 student-athlete to enter into an agency contract.

1 (b) Records required by subsection (a) to be retained are open to inspection by the secretary  
2 of the Department of Revenue and Regulation during normal business hours.

3 Section 14. (a) An athlete agent, with the intent to induce a student-athlete to enter into an  
4 agency contract, may not:

- 5 (1) Give any materially false or misleading information or make a materially false  
6 promise or representation;
- 7 (2) Furnish anything of value to a student-athlete before the student-athlete enters into  
8 the agency contract; or
- 9 (3) Furnish anything of value to any individual other than the student-athlete or another  
10 registered athlete agent.

11 (b) An athlete agent may not intentionally:

- 12 (1) Initiate contact with a student-athlete unless registered under this Act;
- 13 (2) Refuse or fail to retain or permit inspection of the records required to be retained by  
14 section 13 of this Act;
- 15 (3) Fail to register when required by section 4 of this Act;
- 16 (4) Provide materially false or misleading information in an application for registration  
17 or renewal of registration;
- 18 (5) Predate or postdate an agency contract; or
- 19 (6) Fail to notify a student-athlete before the student-athlete signs or otherwise  
20 authenticates an agency contract for a particular sport that the signing or  
21 authentication may make the student-athlete ineligible to participate as a student-  
22 athlete in that sport.

23 Section 15. An athlete agent who violates section 14 of this Act is guilty of a Class 6 felony.

24 Section 16. (a) An educational institution has a right of action against an athlete agent or a

1 former student-athlete for damages caused by a violation of this Act. In an action under this  
2 section, the court may award to the prevailing party costs and reasonable attorney's fees.

3 (b) Damages of an educational institution under subsection (a) include losses and expenses  
4 incurred because, as a result of the conduct of an athlete agent or former student-athlete, the  
5 educational institution was injured by a violation of this Act or was penalized, disqualified, or  
6 suspended from participation in athletics by a national association for the promotion and  
7 regulation of athletics, by an athletic conference, or by reasonable self-imposed disciplinary  
8 action taken to mitigate sanctions likely to be imposed by such an organization.

9 (c) A right of action under this section does not accrue until the educational institution  
10 discovers or by the exercise of reasonable diligence would have discovered the violation by the  
11 athlete agent or former student-athlete.

12 (d) Any liability of the athlete agent or the former student-athlete under this section is  
13 several and not joint.

14 (e) This Act does not restrict rights, remedies, or defenses of any person under law or equity.

15 Section 17. The secretary of the Department of Revenue and Regulation may assess a civil  
16 penalty against an athlete agent not to exceed twenty-five thousand dollars for a violation of this  
17 Act. All moneys received pursuant to this section shall be deposited in the state general fund.

18 Section 18. In applying and construing this Uniform Act, consideration must be given to the  
19 need to promote uniformity of the law with respect to its subject matter among states that enact  
20 it.

21 Section 19. The provisions of this Act governing the legal effect, validity, or enforceability  
22 of electronic records or signatures, and of contracts formed or performed with the use of such  
23 records or signatures conform to the requirements of section 102 of the Electronic Signatures  
24 in Global and National Commerce Act, Pub. L. No. 106-229, 114 Stat. 464 (2000), and

1   supersede, modify, and limit the Electronic Signatures in Global and National Commerce Act.  
2       Section 20. If any provision of this Act or its application to any person or circumstance is  
3   held invalid, the invalidity does not affect other provisions or applications of this Act which can  
4   be given effect without the invalid provision or application, and to this end the provisions of this  
5   Act are severable.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

823M0501

SENATE JUDICIARY COMMITTEE ENGROSSED NO.

**SB 180** - 02/01/2006

Introduced by: Senator Gant and Representative Weems

1 FOR AN ACT ENTITLED, An Act to require consumer reporting agencies to provide security  
2 freezes for consumers who are victims of identity theft.

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

4 Section 1. For purposes of this Act, a victim of identity theft is a victim of a crime as  
5 defined in § 22-30A-3.1.

6 Section 2. For the purposes of this Act, a security freeze is a notice placed in a consumer's  
7 credit report, at the request of the consumer and subject to certain exceptions, that prohibits the  
8 consumer reporting agency from releasing the consumer's credit report, relating to the extension  
9 of credit involving that consumer's report, without the express authorization of the consumer.  
10 If a security freeze is in place, information from a consumer's credit report may not be released  
11 to a third party without prior express authorization from the consumer.

12 Section 3. Any person who is a victim of identity theft and has submitted a valid police  
13 report to a consumer reporting agency may elect to place a security freeze on that person's report  
14 by making a request in writing by certified mail to a consumer reporting agency at an address  
15 designated by the consumer reporting agency to receive such requests. This section does not



1 prevent a consumer reporting agency from advising a third party that a security freeze is in effect  
2 with respect to the consumer's credit report.

3 Section 4. A consumer reporting agency shall place a security freeze on a consumer's credit  
4 report no later than five business days after receiving a written request from the consumer.

5 Section 5. The consumer reporting agency shall send a written confirmation of the security  
6 freeze to the consumer within ten business days and shall provide the consumer with a unique  
7 personal identification number or password to be used by the consumer when providing  
8 authorization for the release of the consumer's credit report for a specific period of time.

9 Section 6. If any consumer wishes to allow the consumer's credit report to be accessed for  
10 a specific period of time while a freeze is in place, the consumer shall contact the consumer  
11 reporting agency at a point of contact designated by the agency to receive such requests, request  
12 that the freeze be temporarily lifted, and provide the following:

13 (1) Proper identification, which means that information generally deemed sufficient to  
14 identify a consumer. Only if the consumer is unable to sufficiently identify himself  
15 or herself, may a consumer reporting agency require additional information  
16 concerning the consumer's employment and personal or family history in order to  
17 verify the consumer's identity;

18 (2) The unique personal identification number or password provided by the credit  
19 reporting agency pursuant to section 5 of this Act; and

20 (3) The proper information regarding the time period for which the report is available to  
21 users of the credit report.

22 Any consumer reporting agency that receives a request to temporarily lift a freeze on a credit  
23 report pursuant to this section shall comply with the request no later than three business days  
24 after receiving the request.

1 Section 7. A consumer reporting agency may develop procedures involving the use of  
2 telephone, fax, the internet, or other electronic media to receive and process a request from a  
3 consumer to temporarily lift a freeze on that consumer's credit report in an expedited manner.

4 Section 8. A consumer reporting agency shall remove or temporarily lift a freeze placed on  
5 a consumer's credit report only in the following cases:

- 6 (1) Upon a consumer's request pursuant to section 6 or 11 of this Act; or
- 7 (2) When the consumer's credit report was frozen due to a material misrepresentation of  
8 fact by the consumer. When a consumer reporting agency intends to remove a freeze  
9 upon a consumer's credit report under this subdivision, the consumer reporting  
10 agency shall notify the consumer in writing prior to removing the freeze on the  
11 consumer's credit report.

12 Section 9. If a third party requests access to a consumer credit report on which a security  
13 freeze is in effect, and this request is in connection with an application for credit or any other  
14 use, and the consumer does not allow the consumer's credit report to be accessed for that  
15 specific party or period of time, the third party may treat the application as incomplete.

16 Section 10. If a consumer requests a security freeze, the consumer reporting agency shall  
17 disclose the process of placing and temporarily lifting a freeze, and the process for allowing  
18 access to information from the consumer's credit report for a specific party or period of time  
19 while the freeze is in place.

20 Section 11. A security freeze remains in place until the earlier of the date the consumer  
21 reporting agency receives a request from the consumer to remove the freeze or until seven years  
22 from the date that the security freeze was put in place pursuant to section 4 of this Act. A  
23 consumer reporting agency shall remove a security freeze within three business days of  
24 receiving a request for removal from the consumer, who provides both of the following:

- 1 (1) Proper identification, as defined in subdivision (1) of section 6 of this Act; and
- 2 (2) The unique personal identification number or password provided by the consumer
- 3 reporting agency pursuant to section 5 of this Act.

4 Requests for removal shall be made to a point of contact designated by the agency to receive  
5 such requests.

6 Section 12. This Act does not apply to the use of a consumer credit report by any of the  
7 following:

- 8 (1) A person, or a subsidiary, affiliate, or agent of that person, or an assignee of a  
9 financial obligation owed by the consumer to that person or entity, or a prospective  
10 assignee of a financial obligation owed by the consumer to that person in conjunction  
11 with the proposed purchase of the financial obligation, with which the consumer has  
12 or had prior to assignment an account or contract, including a demand deposit  
13 account, or to whom the consumer issued a negotiable instrument for the purposes  
14 of reviewing the account or collecting the financial obligation owed for the account,  
15 contract, or negotiable instrument. The term, reviewing the account, includes  
16 activities related to account maintenance, monitoring, credit line increases, and  
17 account upgrades and enhancements;
- 18 (2) A subsidiary, affiliate, agent, assignee, or prospective assignee of a person to whom  
19 access has been granted under section 6 of this Act for purposes of facilitating the  
20 extension of credit or other permissible use;
- 21 (3) Any federal, state, or local entity, including a law enforcement agency or court;
- 22 (4) A private collection agency acting under a court order, warrant, or subpoena;
- 23 (5) A child support agency acting under Title IV-D of the Social Security Act (42 U.S.C.  
24 et seq.);

- 1       (6)   The Department of Social Services acting to fulfill any of its statutory  
2           responsibilities;
- 3       (7)   The Internal Revenue Service acting to investigate or collect delinquent taxes or  
4           unpaid court orders or to fulfill any of its other statutory responsibilities;
- 5       (8)   The use of credit information for the purposes of prescreening as provided for by the  
6           federal Fair Credit Reporting Act;
- 7       (9)   Any person or entity administering a credit file monitoring subscription service to  
8           which the consumer has subscribed;
- 9       (10)  Any person or entity for the purpose of providing a consumer with a copy of the  
10          consumer's credit report upon the consumer's request; and
- 11      (11)  Any person or entity for use in setting or adjusting a rate, adjusting a claim, or  
12          underwriting for insurance purposes.

13       Section 13. If a security freeze is in place, a consumer reporting agency may not change any  
14      name, date of birth, social security number, or address in a consumer credit report without  
15      sending a written confirmation of the change to the consumer within thirty days of the change  
16      being posted to the consumer's file. Written confirmation is not required for technical  
17      modifications of a consumer's official information, including name and street abbreviations,  
18      complete spellings, or transposition of numbers or letters. In the case of an address change, the  
19      written confirmation shall be sent to both the new address and to the former address.

20       Section 14. No consumer reporting agency is required to place a security freeze in a  
21      consumer credit report if the consumer reporting agency acts only as a reseller of credit  
22      information by assembling and merging information contained in the data base of another  
23      consumer reporting agency or multiple consumer reporting agencies, and does not maintain a  
24      permanent data base of credit information from which new consumer credit reports are

1 produced. However, a consumer reporting agency shall honor any security freeze placed on a  
2 consumer credit report by another consumer reporting agency.

3 Section 15. The following entities are not required to place a security freeze in a consumer  
4 credit report pursuant to this Act:

5 (1) A check services or fraud prevention services company, which issues reports on  
6 incidents of fraud or authorizations for the purpose of approving or processing  
7 negotiable instruments, electronic funds transfers, or similar methods of payments;  
8 and

9 (2) A deposit account information service company, which issues reports regarding  
10 account closures due to fraud, substantial overdrafts, ATM abuse, or similar negative  
11 information regarding a consumer, to inquiring banks or other financial institutions  
12 for use only in reviewing a consumer request for a deposit account at the inquiring  
13 bank or financial institution.

14 Section 16. A consumer reporting agency may furnish to a governmental agency a  
15 consumer's name, address, former address, places of employment, or former places of  
16 employment even if a security freeze is in place.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

444M0384

SENATE HEALTH AND HUMAN SERVICES  
COMMITTEE ENGROSSED NO. **SB 184** - 02/01/2006

Introduced by: Senator Kooistra and Representative Gillespie

1 FOR AN ACT ENTITLED, An Act to provide for the notification of certain members of the  
2 armed forces concerning screening for exposure to depleted uranium.

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

4 Section 1. Terms used in this Act mean:

5 (1) "Depleted uranium," uranium containing less uranium-235 than the naturally  
6 occurring distribution of uranium isotopes;

7 (2) "Eligible member," a member who served in Bosnia or Kosovo or in the Persian Gulf  
8 War, as defined in 38 USC 101, as amended to January 1, 2006, or in an area  
9 designated as a combat zone by the President of the United States during Operation  
10 Enduring Freedom or Operation Iraqi Freedom;

11 (3) "Member of the armed forces" or "member," a member of the armed forces of the  
12 United States, including the South Dakota National Guard, who is a resident of this  
13 state;

14 (4) "Veteran," a veteran as defined in § 33-17-1 who served as an eligible member.

15 Section 2. After September 30, 2006, any eligible member or veteran who returns or has



1 returned to this state after service in an area designated as a combat zone by the President of the  
2 United States and who has been assigned a risk level I or II for depleted uranium exposure by  
3 the member's or veteran's branch or service, or any other member or veteran who has reason to  
4 believe that the member or veteran was exposed to depleted uranium during such service, shall  
5 be informed upon request of the member's or veteran's right to a medical evaluation for exposure  
6 to depleted uranium to be conducted at the nearest United States Department of Veterans Affairs  
7 medical facility. The Department of Military and Veterans Affairs shall promulgate rules  
8 pursuant to chapter 1-26 to provide for the notification of members and veterans required  
9 pursuant to this Act.

10 Section 3. Before January 1, 2007, the adjutant general of the South Dakota National Guard  
11 shall submit a report to the Legislature on the scope and adequacy of training received by  
12 members of the armed forces on detecting whether their service as eligible members is likely  
13 to entail, or to have entailed, exposure to depleted uranium. The report shall include an  
14 assessment of the feasibility and cost of adding predeployment training concerning potential  
15 exposure to depleted uranium and other toxic chemical substances and the precautions  
16 recommended under combat and noncombat conditions while in a combat zone.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

400M0677      **SENATE COMMERCE COMMITTEE ENGROSSED NO.**  
**SB 200 - 02/02/2006**

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

1    FOR AN ACT ENTITLED, An Act to authorize the risk pool board to allow additional  
2        enrollees into the risk pool under certain circumstances.

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

4        Section 1. That § 58-17-121 be amended to read as follows:

5        58-17-121. The board has the general powers and authority enumerated by §§ 58-17-68, 58-  
6    17-70, 58-17-85, and 58-17-113 to 58-17-142, inclusive, and, in addition to the responsibilities  
7    in § 58-17-119, may:

- 8        (1)    Enter into any contract as necessary or proper to carry out §§ 58-17-68, 58-17-70, 58-  
9        17-85, and 58-17-113 to 58-17-142, inclusive;
- 10       (2)    Take any legal action necessary or proper for recovery of any assessments for, on  
11       behalf of, or against participating carriers;
- 12       (3)    Take any legal action necessary to avoid the payment of improper claims against the  
13       risk pool or the coverage provided by or through the risk pool;
- 14       (4)    Use medical review to determine that care is clinically appropriate and cost effective  
15       for the risk pool;



- 1 (5) Establish appropriate rates, scales of rates, rate classifications, and rating  
2 adjustments, none of which may be unreasonable in relation to the coverage provided  
3 and the reasonable operational expenses of the risk pool;
- 4 (6) Issue risk pool plans on an indemnity, network, or provision of service basis and may  
5 design, utilize, contract, or otherwise arrange for the delivery of cost effective health  
6 care services, including establishing or contracting with preferred provider  
7 organizations, health maintenance organizations, and other limited network provider  
8 arrangements in providing the coverage required by §§ 58-17-68, 58-17-70, 58-17-  
9 85, and 58-17-113 to 58-17-142, inclusive;
- 10 (7) Create appropriate legal, actuarial, and other committees necessary to provide  
11 technical assistance in the operation of the risk pool, plan and other contract design,  
12 and any other functions within the authority of the risk pool;
- 13 (8) Provide, by including a provision in its plans, for subrogation rights by the risk pool  
14 for situations in which the risk pool pays expenses on behalf of an individual who is  
15 injured or suffers a disease under circumstances creating a liability upon another  
16 person to pay damages to the extent of the expenses paid by the risk pool, but only  
17 to the extent the damages exceed the plan deductible and coinsurance amounts paid  
18 by the enrollee; and
- 19 (9) Allow an applicant who is not otherwise eligible for coverage pursuant to § 58-17-85  
20 to enroll in the risk pool if all of the following are met:
  - 21 (a) The applicant is covered by an individual health benefit plan that is no longer  
22 being marketed in this state and has a premium rate that exceeds two hundred  
23 percent of the applicable rate, based upon that person's rating characteristics,  
24 charged to risk pool enrollees;

