



# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

491M0619

SENATE TAXATION COMMITTEE ENGROSSED NO.

**HB 1164** - 02/15/2006

Introduced by: Representatives Haverly, Buckingham, and Putnam and Senators Napoli, Abdallah, and Duniphan

1 FOR AN ACT ENTITLED, An Act to revise the taxation of leased motorcycles and motorized  
2 bicycles.

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

4 Section 1. That § 32-5B-21 be amended to read as follows:

5 32-5B-21. The tax imposed by §§ 32-5B-1, 32-5B-1.1, 32-5B-4(7), and 32-5B-21 to 32-5B-  
6 24, inclusive, and calculated in the manner set out in § 32-5B-4 on the sale or use of leased  
7 vehicles subject to titling and registration applies to vehicles with a gross vehicle weight ratings  
8 of less than sixteen thousand pounds or vehicles defined in subdivision 32-9-3(3), ~~excluding~~  
9 including motorcycles and motorized bicycles. No certificate of title may be issued until the tax  
10 is paid.

11 The county treasurer shall require every applicant for registration of a vehicle subject to tax  
12 under §§ 32-5B-1, 32-5B-1.1, 32-5B-4(7), and 32-5B-21 to 32-5B-24, inclusive, to supply  
13 information as is deemed necessary as to the date of the lease transaction, the lease price, and  
14 other information relative to the lease of the vehicle.



# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

492M0577

SENATE TAXATION COMMITTEE ENGROSSED NO.

**HB 1174** - 02/15/2006

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

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

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

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

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

10 Section 2. That chapter 9-55 be amended by adding thereto a NEW SECTION to read as  
11 follows:

12 If a district has imposed an occupation tax based on rooms rented and the occupational tax  
13 revenue was used only for the promotion of the district, a majority of the landowners may  
14 dissolve the district established pursuant to § 9-55-7 by submitting a petition to the governing  
15 body requesting the district to be dissolved. On and after the date the petition is filed with the



1 governing body, the district may not enter into any new obligations or contracts. Not  
2 withstanding the other provisions of this chapter, the governing body, upon receiving the  
3 petition and verifying that a majority of the landowners have signed the petition, shall by  
4 resolution dissolve the district. However, the governing body may not dissolve the district until  
5 there are sufficient funds available to extinguish all of the debts and obligations of the district.  
6 The governing body shall administer any remaining affairs and issues concerning the dissolved  
7 district.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

366M0661

SENATE JUDICIARY COMMITTEE ENGROSSED NO.

**HB 1199** - 02/15/2006

Introduced by: Representatives Gillespie, Buckingham, and Hennies and Senators Koskan,  
Abdallah, Broderick, Moore, and Schoenbeck

1 FOR AN ACT ENTITLED, An Act to prohibit the release of information concerning the  
2 applicants and holders of permits to carry a concealed pistol.

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

4 Section 1. That chapter 23-7 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 No state agency, political subdivision, official, agent, employee of any state agency or  
7 political subdivision, may knowingly release or permit access to any application, list, record or  
8 registry of applicants or holders of permits to carry a concealed pistol to any person except  
9 another law enforcement agency or the secretary of state.

10 Section 2. That § 23-7-8.6 be amended to read as follows:

11 23-7-8.6. No state agency, political subdivision, official, agent, or employee of any state  
12 agency or political subdivision, ~~or any other person~~ may knowingly keep or cause to be kept any  
13 list, record, or registry of privately owned firearms or any list, record, or registry of the owners  
14 of those firearms, or any list, record, or registry of holders of permits to carry a concealed pistol.



# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

625M0529

SENATE JUDICIARY COMMITTEE ENGROSSED NO.

**HB 1218** - 02/15/2006

Introduced by: Representatives Murschel, Brunner, Cutler, Elliott, Frost, Hennies, Jensen, Kraus, Novstrup, O'Brien, Rave, and Vehle and Senators Sutton (Dan), Abdallah, Dempster, Gant, Gray, and Kooistra

1 FOR AN ACT ENTITLED, An Act to establish a task force to study education for divorcing  
2 parents and visitation and custody matters.

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

4 Section 1. There is established the Task Force to Study Education for Divorcing Parents and  
5 Visitation and Custody Matters. The task force shall consist of seventeen members. Five  
6 members shall be appointed by the speaker of the House of Representatives, five members shall  
7 be appointed by the president pro tempore of the Senate, four members shall be appointed by  
8 the Governor, and three members shall be appointed by the Chief Justice. Not all members  
9 appointed by each appointive power may belong to the same political party. The initial  
10 appointments shall be made no later than sixty days after the effective date of this Act. If there  
11 is a vacancy on the task force, the vacancy shall be filled in the same manner as the original  
12 appointment. The majority of the appointments shall include legislators. The appointments shall  
13 also include a member who is a behavioral health care expert, divorced parent, divorce  
14 mediator, attorney, a member of the South Dakota Council of Mental Health Centers, and a



1 representative of the Department of Social Services.

2 Section 2. The task force shall be under the supervision of the Executive Board of the  
3 Legislative Research Council and staffed and funded as an interim legislative committee. The  
4 executive board shall appoint the chair and vice chair of the task force who shall be members  
5 of the Legislature.

6 Section 3. The task force shall study South Dakota's delivery of parent education for  
7 divorcing parents with minor children, visitation and custody issues, and shall explore best  
8 practice models of evidence-based curriculums, court-required education, and visitation  
9 referees. The task force shall make recommendations to improve divorce outcomes for children  
10 and families and shall submit its final report to the Governor, Legislature, and Chief Justice no  
11 later than June 30, 2007.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

664M0159

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

**SB 1 - 02/17/2006**

Introduced by: Senators Schoenbeck, Abdallah, Bogue, Koskan, and McCracken and  
Representatives Hennies, Cutler, Deadrick, Dykstra, Kraus, McCoy,  
McLaughlin, Michels, Murschel, O'Brien, Rhoden, Roberts, Rounds, Tornow,  
and Willadsen

1 FOR AN ACT ENTITLED, An Act to provide for the mandatory withdrawal of blood or other  
2 bodily substances subsequent to arrest for driving while under influence.

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

4 Section 1. That § 32-23-10 be amended to read as follows:

5 32-23-10. Any person who operates any vehicle in this state is considered to have given  
6 consent to the withdrawal of blood or other bodily substance and chemical analysis of the  
7 person's blood, breath, or other bodily substance to determine the amount of alcohol in the  
8 person's blood and to determine the presence of marijuana or any controlled drug or substance  
9 or any substance ingested, inhaled, or otherwise taken into the body as prohibited by § 22-42-15  
10 or any other substance that may render a person incapable of safely driving. The arresting law  
11 enforcement officer may, subsequent to the arrest of any operator for a violation of § 32-23-1,  
12 require the operator to submit to the withdrawal of blood or other bodily substances as evidence.  
13 ~~— The person shall be requested by the officer to submit to the withdrawal of blood or other~~  
14 ~~bodily substance for chemical analysis or chemical analysis of the person's breath and shall be~~



1 advised by the officer that:

2 ~~— (1) — If the person refuses to submit to the withdrawal or chemical analysis, no withdrawal~~  
3 ~~or chemical analysis may be required unless the person has been arrested for a third,~~  
4 ~~fourth, or subsequent violation of § 32-23-1, constituting a felony offense under~~  
5 ~~§ 32-23-4 or 32-23-4.6; has been arrested for vehicular homicide under § 22-16-41~~  
6 ~~or vehicular battery under § 22-16-42, or has been involved in an accident resulting~~  
7 ~~in death or serious bodily injury of another person;~~

8 ~~— (2) — If the person refuses to submit to the withdrawal or chemical analysis, the person's~~  
9 ~~driver's license shall be revoked for one year, unless pursuant to § 32-23-11.1 the~~  
10 ~~person pleads guilty to a violation of § 32-23-1 or 32-23-21, prior to a revocation~~  
11 ~~order being issued; and~~

12 ~~— (3) — The person has the right to have a chemical analysis performed by a technician of the~~  
13 ~~person's own choosing at the person's own expense, in addition to the test requested~~  
14 ~~by the officer.~~

15 Section 2. That § 32-23-15 be amended to read as follows:

16 32-23-15. ~~The~~ Any person tested pursuant to §§ ~~32-23-13~~ 32-23-10 and 32-23-14 shall be  
17 permitted to have a physician, laboratory technician, registered nurse, physician's assistant, or  
18 medical technologist of ~~his~~ the person's own choosing administer the chemical analysis in  
19 addition to the one administered at the direction of the law enforcement officer.

20 Section 3. That § 32-23-16 be amended to read as follows:

21 32-23-16. Upon the request of ~~the~~ any person who was tested pursuant to §§ ~~32-23-13~~ 32-  
22 23-10 and 32-23-14, or upon the request of ~~his~~ the person's attorney, the results of such analysis  
23 shall be made available to ~~him~~ the person or to ~~his~~ the person's attorney.

24 Section 4. That § 32-23-14 be amended to read as follows:

1        32-23-14. Only a physician, laboratory technician, registered nurse, physician's assistant,  
2 phlebotomist, expanded role licensed practical nurse, medical technician, or medical  
3 technologist may withdraw blood for the purpose of determining the alcoholic content therein.  
4 This limitation does not apply to the taking of a breath or other bodily substance specimen. Such  
5 authorized persons, acting on the presumption of consent in § 32-23-10, and any hospital or  
6 facility employing such persons, are not liable and may not be held to pay damages to the party  
7 from whom the blood sample is withdrawn, if the withdrawal is administered with usual and  
8 ordinary care. No person authorized to withdraw blood under this section may be required or  
9 forced to withdraw blood for the purposes outlined in this chapter, unless required pursuant to  
10 a written agreement.

# 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 (houghoused) 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

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 (hoghoused) 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, Klaut, 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

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

400M0675      **HOUSE APPROPRIATIONS COMMITTEE ENGROSSED**  
**NO. SB 202 - 02/17/2006**

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

1    FOR AN ACT ENTITLED, An Act to make an appropriation for costs related to increased  
2        energy costs in K-12 school districts and postsecondary vocational education institutions and  
3        to declare an emergency.

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

5        Section 1. There is hereby appropriated from the state general fund the sum of two million  
6        three hundred thousand dollars (\$2,300,000), or so much thereof as may be necessary, to the  
7        Department of Education to be distributed on a one-time basis to approved K-12 school districts  
8        and postsecondary vocational education institutions to help pay for increased heating costs  
9        realized during the 2005-2006 school year.

10       Section 2. To participate and receive funds appropriated in section 1, any public school or  
11       postsecondary vocational education institution shall submit an energy reimbursement form with  
12       supporting information related to heating costs incurred for the 2005-2006 school year and the  
13       2004-2005 school year to the Department of Education. The Department of Education shall  
14       disburse the funds based on the increases in costs from 2004-2005 year to the 2005-2006 year.  
15       The funds shall be distributed on a pro-rata share of the total amount of funds requested. Any



1 school district participating shall submit a statement signed by the school district superintendent,  
2 the school district business manager, and the school district school board president that this  
3 funding is being accepted on a one-time basis. Any postsecondary vocational education  
4 institution participating shall submit a statement signed by the director of the institution, the  
5 business manager for the institution, and the school district school board president that this  
6 funding is being accepted on a one-time basis.

7 Section 3. Any amounts appropriated in this Act not lawfully expended or obligated by  
8 June 30, 2006, shall revert in accordance with § 4-8-21.

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