

# THE SOUTH DAKOTA FREEDOM INDEX



*HOW YOUR STATE LEGISLATORS VOTED ON THE "TOP TEN" ISSUES AFFECTING YOUR FREEDOM. Our first look at the voting records of the state Legislators of South Dakota serving 2-year terms beginning in January of 2011. How every lawmaker voted on issues such as "Obamacare," abortion, texting while driving, and home schooling.*

## South Dakota House Vote Descriptions

**1 Voluntary, Uncoerced, Informed Abortions.** HB 1217 requires a woman to wait 72 hours before having an abortion in SD, during which time she would be required to receive counseling at a pregnancy counseling center. A licensed physician performing any abortion would be required to meet with her in-person before performing any abortion; both the pregnancy counseling center and the doctor would need to screen for and certify that any decision to proceed with an abortion is not due to coercion, force, or pressure, and that the woman is making a fully informed decision. The bill passed the House by a vote of 49-19 on Feb. 22, 2011 (H.J. 476) . We have assigned plusses to the "yeas" because this legislation helps ensure that fraud, injury, and abuse do not occur in the abortion industry, which will likely reduce the number of abortions in the state.

**2 State-level "Obamacare" HMO Regulation** SB 38 put SD law more in line with the Federal health care law often referred to as "Obamacare." It is rife with mandates aimed at those in the health care industry. It describes in great detail how a health carrier will be deemed as providing adequate access to health care, what it will put in its contracts with providers, how it will be forced to assess and report to the state the quality of health care provided, and how the state will monitor its plans to improve. It effectively gives the state power to micromanage how those in the industry determine whether they cover policy holders' health care claims. It passed the House 40-29 on Feb. 24, 2011 (H.J. 522). We have assigned plusses to the "nays" because the bill represents the opposite of free-market capitalism in the health care arena. Also, the sheer volume and cost of paperwork involved for compliance is difficult to fathom. Congress has no legitimate constitutional authority to manage the health care industry; implementing such usurpation of power at the state level can hardly be deemed as upholding one's oath to the US Constitution.

**3 Aligning State Health Insurance Standards with "Obamacare."** This bill laid the groundwork for the full implementation of "Obamacare" throughout the insurance industry in SD. Like its federal counterpart, it mandates coverage of preexisting conditions in health insurance policies, prohibits insurers from dropping the children of insured parents from their policies before the "child" turns 26, and subjects all accident and health insurance premium rates to approval by the state (price controls). In addition, it requires every health insurance policy issued to a female to provide coverage for low-dose mammography. It implements more price controls by mandating that

... [continued on p. 2]

## About This Index

The South Dakota Freedom Index is a project of the South Dakota Freedom Coalition. It rates all South Dakota Legislators based on their adherence to constitutional principles of limited government, fiscal responsibility, federalism, and protection of life, liberty, property, and pursuit of happiness. To learn how any state Representative or Senator voted on the legislation described herein, find him or her in the appropriate vote chart. The scores are derived by dividing a legislator's freedom-friendly votes (pluses) by the total votes he or she cast and multiplying by 100%. Legislators voting on fewer than five votes are not assigned a score. Those who were either absent or excused for a vote receive a "?" for that vote. The average House score for this Index (votes 1-10) is 51% with the highest scores being earned by Representatives Betty Olson of Prairie City (90%), and Stace Nelson of Fulton (89%). The average Senate score is 55%, with the highest score (80%) earned by Senators Corey Brown of Gettysburg, and Ryan Maher of Isabel. We encourage readers to examine how their own legislators voted on each of the 10 key measures as well as overall. We also encourage readers to commend legislators for their freedom-friendly votes and to urge improvement where needed. This is our first annual report for legislators who began their 2-year terms in January of 2011. Our next report (votes 11-20) will appear in our 2012 Index. □

[continued from p. 1] ... all "base rate" increases in employer-provided insurance be filed to and approved by the state. SB 43 passed the House 50-16 on March 1, 2011 (H.J. 583). We have assigned plusses to the "nays" because the bill helps implement a thoroughly unconstitutional federal law (The enumerated powers in the Constitution do not give Congress authority to manage the health insurance industry). It also is a significant intervention into the free market (mandating what to produce, how to produce it, and what price to charge), leading to increased insurance premiums, and/or less competition in the insurance marketplace, resulting in lower quality while placing a significant burden on small businesses.

**4 Reaffirming the 9th and 10th Amendments.** This resolution expressed the finding of the South Dakota legislature that any federal law that either "interferes with the right of any person or entity to choose their personal physician, private health care system, or private health care coverage," or which "imposes any penalty ... for declining to purchase health care coverage or participate in any particular health care system or plan" is "inherently unconstitutional" pursuant to the 9th and 10th amendments of the US Constitution due to the absence of any "specific authority" authorizing such a law. HCR 1004 passed the House 42-26 on Feb. 7, 2011 (H.J. 292). We have assigned plusses to the "yeas" because it reaffirms a basic principle established at our nation's founding.

**5 Property Rights vs. "Open Fields" Doctrine** HB 1178 spells out in law the legitimate reasons for which conservation officers (game wardens, etc.) may enter private property. They either must get permission from the land owner, or have reasonable suspicion or probable cause that a crime is about to be committed, or be responding to an emergency, in the act of dispatching an injured animal, or investigating a report of illegal hunting. The bill failed in the House 21-48 on Feb. 23, 2011 (H. J. 499). We have assigned plusses to the "yeas" because, had it been enacted, it would have been a step toward protecting private property rights from abuse by law enforcement.

**6 Granting Concealed Pistol Permits to Resident Aliens.** This bill, now law, provides for persons holding "green cards" (those with permanent resident status) to be granted a South Dakota concealed pistol permit. Previously, only US citizens were granted these permits. The House passed HB 1149 on Feb. 16, 2011 by a vote of 66-2 (H. J. 432). We have assigned plusses to the "yeas" because, as stated in the US Declaration of Independence, "all men" receive certain "unalienable" rights from their Creator, not from government. The right to "keep and bear arms" was specifically listed in the US Bill of Rights to ensure that government would not find excuses to disarm civilians as governments had often done in the past.

**7 Prohibiting Employment of Illegal Aliens.** SB 156 would have created state law prohibiting the employment of illegal aliens and provided penalties for those who hire them. It failed in the House 33-35 on March 8, 2011 (H.J. 684). We have assigned plusses to the "Yeas" because although the United States is charged in the US Constitution with protecting each state from "invasion," this duty does not preclude a state from protecting itself in ways that it sees fit.

**8 Home Education/Parental Rights:** HB 1133 allows parents to begin immediately educating their children at home after filing the required paperwork to notify the local school district of the parents' decision, rather than having to wait until the local school board takes action. It passed the House 63-4 on Feb. 7, 2011 (HJ 302). We have assigned plusses to the yeas because the bill is a step toward recognizing that the right and responsibility to educate children belongs to parents, not the state.

**9 Large Project Development Fund.** HB 1230 establishes a "large project development fund," essentially a fund that is to be used for South Dakota state government to give special grants and loans to businesses or to help a business get started, all in the name of "economic development." A project is deemed "large" if it costs \$5 million or more. The funds are to come from 22% of "all deposits into the general fund of the contractors' excise tax ... and the alternate contractors' excise tax." Deposits into the fund may also come from "federal sources, gifts, [and] contributions." HB 1230 passed the House 50-18 on Feb. 17, 2011 (H. J. 450). We have assigned plusses to the "nays" because in a free-market economy, government's role in is not to pick which businesses should receive startup capital, but rather to punish fraud, theft, and injury and vindicate the rights of victims of such offenses.

**10 Use of Force to Protect Unborn Child.** HB 1171 would have changed the statutory definition of Justifiable Homicide to include the protection of one's unborn child. It was tabled (killed) by the House 61-4 on Feb 17, 2011 (H. J. 453). Opponents argued that the bill could be interpreted to justify killing abortion providers in South Dakota. We have assigned plusses to the "Nays" because, rather than tabling the bill, the House should have amended it to clarify that HB 1171 in no way condoned killing abortion providers. Also, the bill places government in its proper role of securing the unalienable right of life.

## South Dakota House Vote Scores

Dist. #	Name/ (Party)	Vote Number										% Score
		1	2	3	4	5	6	7	8	9	10	
1	Wisner (D)	-	-	-	-	-	+	-	-	+	-	20%
1	Sigdestad (D)	-	-	-	-	-	+	-	+	+	-	30%
2	Elliott (D)	-	-	-	?	?	?	-	?	?	?	
2	Dennert (D)	-	-	-	-	-	+	-	+	+	-	30%

Dist. #	Name/ (Party)	Vote Number										% Score
		1	2	3	4	5	6	7	8	9	10	
18	Hunhoff, B. (D)	-	-	-	-	-	+	-	+	+	-	30%
19	Van Gerpen (Rep.)	+	+	-	+	+	+	+	+	-	-	70%
19	Kloucek (D)	+	-	-	-	-	+	+	-	+	-	40%
20	Rozum (Rep.)	+	-	-	+	-	+	-	+	-	-	40%

Vote Number

Dist. #	Name/ (Party)	1	2	3	4	5	6	7	8	9	10	% Score
3	Novstrup, D. (Rep.)	+	-	-	+	-	+	-	+	-	-	40%
3	Feickert (D)	+	-	-	-	-	+	-	+	+	-	40%
4	Street (D)	-	-	-	-	-	+	-	+	+	+	40%
4	Rausch (Rep.)	+	-	-	+	-	+	-	+	-	-	40%
5	Solum (Rep.)	+	-	-	-	-	+	-	+	-	-	30%
5	Magstadt (Rep.)	+	+	-	+	-	+	+	+	-	-	60%
6	Tulson (Rep.)	+	+	-	+	-	+	-	+	-	-	50%
6	Greenfield (Rep.)	+	+	+	+	+	+	+	+	-	-	80%
7	Munsterman (Rep.)	+	-	-	+	-	+	?	+	-	-	44%
7	Hawley (D)	-	-	-	-	-	+	-	+	+	-	30%
8	Stricherz (D)	+	+	-	+	-	+	+	+	-	-	60%
8	Fargen (Rep.)	-	-	-	-	-	+	-	+	+	-	30%
9	Hickey (Rep.)	+	+	-	+	+	+	+	+	-	-	70%
9	Deelstra (Rep.)	-	+	-	?	-	+	+	?	-	-	38%
10	Hunt (Rep.)	+	-	-	+	-	+	-	+	-	-	40%
10	Abdallah (Rep.)	?	+	-	-	-	+	-	?	-	-	25%
11	Willadsen (Rep.)	+	-	-	+	-	+	+	+	-	-	50%
11	Hubbel (Rep.)	+	+	+	+	+	+	+	+	-	-	80%
12	Wick (Rep.)	+	-	-	+	-	+	+	+	-	-	50%
12	Steele (Rep.)	+	+	+	+	+	+	+	+	-	-	80%
13	Liss (Rep.)	+	+	+	+	+	+	+	+	-	-	80%
13	Blake (D)	-	-	-	-	-	+	-	+	+	-	30%
14	Tornow (Rep.)	+	+	+	+	+	+	+	+	+	-	80%
14	Feinstein (D)	-	-	-	-	-	+	-	-	+	-	20%
15	Kirschman (D)	+	-	-	-	-	+	-	+	+	-	40%
15	Haggar (Ind.)	+	+	+	+	+	+	+	+	-	-	80%
16	Miller (Rep.)	+	+	-	+	+	+	+	+	-	+	80%
16	Bolin (Rep.)	+	+	+	-	+	+	-	+	-	-	60%
17	Jones (D)	-	-	-	-	-	+	-	+	+	-	30%
17	Boomgarden (Rep.)	-	+	?	+	-	+	+	+	-	-	56%
18	Moser (Rep.)	+	-	-	+	-	+	+	+	-	?	56%

Vote Number

Dist. #	Name/ (Party)	1	2	3	4	5	6	7	8	9	10	% Score
20	Carson (Rep.)	+	-	-	+	-	+	-	+	-	-	40%
21	Schaefer (Rep.)	+	-	-	+	-	+	+	+	-	-	50%
21	Juhnke (Rep.)	+	+	-	-	-	+	-	+	-	-	40%
22	White (Rep.)	+	-	-	+	-	+	-	+	-	-	40%
22	Gibson (D)	-	-	-	-	-	+	+	+	+	-	40%
23	Hoffman (Rep.)	?	-	-	+	-	+	+	+	-	?	50%
23	Cronin (Rep.)	+	-	?	+	-	+	-	+	-	-	44%
24	Venner (Rep.)	+	+	+	+	+	+	+	+	+	-	70%
24	Perry (Rep.)	-	-	-	-	-	+	-	+	-	?	22%
25	Nelson, S. (Rep.)	+	+	?	+	+	+	+	+	-	+	89%
25	Hansen, J. (Rep.)	+	+	?	+	+	+	+	+	-	-	78%
26A	Lucas (D)	-	-	-	-	-	-	-	-	+	-	10%
26B	Vanneman (Rep.)	+	?	-	+	-	+	-	+	-	-	44%
27	Killer (D)	-	-	-	-	+	+	-	+	?	?	38%
27	Iron Cloud III (D)	+	-	-	-	+	+	+	+	+	-	60%
28A	Schrempp (D)	+	-	-	-	+	+	?	+	+	-	56%
28B	Olson, B. (Rep.)	+	+	+	+	+	+	+	+	+	+	90%
29	Wink (Rep.)	+	-	-	+	+	+	-	+	-	-	50%
29	Brunner (Rep.)	+	+	+	-	+	+	-	+	-	-	60%
30	Verchio (Rep.)	+	+	+	+	+	+	+	+	-	-	80%
30	Russell (Rep.)	+	+	+	+	+	-	+	+	+	-	80%
31	Turbiville (Rep.)	+	-	-	+	-	+	-	+	-	-	40%
31	Romkema (Rep.)	-	-	-	-	-	?	-	+	-	-	11%
32	Gosch (Rep.)	+	+	+	+	-	+	-	+	-	-	60%
32	Conzet (Rep.)	+	+	-	+	-	+	+	+	-	-	60%
33	Sly (Rep.)	+	-	-	+	-	+	+	+	-	-	50%
33	Jensen (Rep.)	+	+	+	+	+	+	+	+	-	-	80%
34	Lust (Rep.)	+	+	-	+	-	+	+	+	-	-	60%
34	Dryden (Rep.)	-	-	-	+	-	+	-	+	-	-	30%
35	Kirkeby (Rep.)	+	-	+	-	-	+	+	+	-	-	50%
35	Kopp (Rep.)	+	+	+	+	-	+	+	+	-	-	70%

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The scores are derived by dividing the number of freedom-friendly votes (plusses) by the total number of plusses and minuses and multiplying by 100. A "?" means that the legislator did not vote. (If a legislator cast fewer than five votes in this Index, a score is not assigned.) Match numbers at the top of the chart to House vote descriptions on pages 1 and 2.

# South Dakota Senate Vote Descriptions

**1 Voluntary, Uncoerced, Informed Abortions** (See House vote #1 for details) HB 1217 passed the Senate on March 2nd, 2011 by a vote of 21-13 (S. J. 598). We assigned plusses to the "yeas" because this bill takes reasonable measures to prevent force, fraud, or abuse, and likely decreases the frequency of abortions in SD.

**2 State-level "Obamacare" HMO Regulation** (See House vote # 2 for details) SB 38 passed the Senate 32-3 on Jan. 24, 2011 (S. J. 185) We have assigned plusses to the "nays" for the same reasons listed for the vote in the House.

**3 Aligning State Health Insurance Standards with "Obamacare."** (See House vote #3 for details) SB 43 passed the Senate 34-0 on Feb. 7, 2011 (S. J. 341). We have assigned plusses to the "nays" for the same reasons listed for the vote in the House.

**4 Reaffirming the 9th and 10th Amendments** (See House vote #4 for details) HCR 1004 passed the Senate 28-5 on Feb. 24, 2011 (S. J. 521). We have assigned plusses to the "yeas" for the same reasons listed for the vote in the House.

**5 Texting and Driving Ban** This bill would have made it a class 2 misdemeanor to "operate a motor vehicle on a highway while using a handheld electronic wireless communication device to write, send, or read a text-based communication." SB 71 passed the Senate 26-9 on Feb. 10, 2011 (S. J. 403). We have assigned plusses to the "nays" because the proposed legislation would place government in the role of penalizing private behaviors rather than punishing crimes and vindicating the rights of victims.

**6 Granting Concealed Pistol Permits to Resident Aliens** (See House vote #6 for details) HB 1149 passed the Senate 33-1 on Mar. 1, 2011 (S. J. 578). We have assigned plusses to the "yeas" for the same reasons listed for the corresponding House vote.

**7 Prohibiting Employment of Illegal Aliens** (See House vote # 7 for details) SB 156 passed the Senate 23-12 on Feb. 23rd, 2011 (S. J. 507). We have assigned plusses to the "yeas" for the same reasons listed in the corresponding House vote.

**8 Home Education/Parental Rights** (See House vote # 8 for details) HB 1133 passed the Senate 33-0 on Feb. 24th, 2011 (S. J. 527). We have assigned plusses to the "yeas" for the same reasons listed in the corresponding House vote.

**9 Large Project Development Fund** (See House vote # 9 for details) HB 1230 passed the Senate 28-4 on Feb. 3rd, 2011 (S. J. 614). We have assigned plusses to the "nays" for the same reasons listed in the corresponding House vote.

**10 Penalty for Denying Access to Public Records.** This bill provides for a fine of \$50 to any governmental agency that denies access to public records after the customary legal process and appeals have been carried out. SB 101 passed the Senate 34-0 on Feb. 8, 2011 (S. J. 365). We have assigned plusses to the "yeas" because the law discourages bureaucratic foot-dragging that can occur while government officials try to withhold information that can be either incriminating or embarrassing, or be used for exerting control over constituents. Full access to public information helps citizens take better control of their own government so that it becomes their servant, rather than their master.

## South Dakota Senate Vote Scores

Vote Number

Vote Number

Dist. #	Name / (Party)	Vote Number										% Score
		1	2	3	4	5	6	7	8	9	10	
1	Frerichs (D)	+	-	-	-	-	+	-	+	+	+	50%
2	Hundstad (D)	-	-	-	-	-	+	-	+	+	+	40%
3	Novstrup, A. (Rep.)	+	-	-	+	-	-	+	+	-	+	50%
4	Begalka (Rep.)	+	+	-	+	-	+	+	+	-	+	70%
5	Holien (Rep.)	+	-	-	+	-	+	+	+	-	+	60%
6	Fryslie (Rep.)	+	-	-	+	-	+	+	+	-	+	60%
7	Tidemann (Rep.)	-	-	-	+	-	+	-	+	-	+	40%
8	Olson, R. (Rep.)	+	-	-	+	+	+	+	-	+	+	70%
9	Peters (Rep.)	-	-	-	+	+	+	-	+	-	+	50%
10	Krebs (Rep.)	+	-	-	+	-	+	+	+	-	+	60%
11	Schlekeway (Rep.)	+	-	-	+	-	+	+	+	-	+	60%
12	Johnston (Rep.)	-	-	-	+	-	+	+	+	-	+	50%
13	Heineman (Rep.)	+	-	-	+	+	+	+	-	+	+	70%
14	Cutler (Rep.)	-	-	-	?	-	+	+	+	-	+	44%
15	Buhl (D)	-	-	?	-	+	?	-	+	+	+	50%
16	Lederman (Rep.)	+	-	-	+	-	+	+	+	-	+	50%
17	Nygaard (Rep.)	-	-	-	?	-	+	-	?	-	+	25%

Dist. #	Name/ (Party)	Vote Number										% Score
		1	2	3	4	5	6	7	8	9	10	
18	Hunhoff, J. (Rep.)	+	-	-	+	-	+	-	+	-	+	50%
19	Putnam (Rep.)	+	-	-	+	-	+	+	+	-	+	60%
20	Vehle (Rep.)	-	-	-	+	-	+	+	+	-	+	50%
21	Garnos (Rep.)	+	-	-	+	-	+	+	+	-	?	56%
22	Hansen, T. (Rep.)	+	-	-	+	-	+	-	+	-	+	50%
23	Brown (Rep.)	+	+	-	+	+	+	+	+	-	+	80%
24	Gray (Rep.)	?	-	-	+	-	+	+	+	?	+	63%
25	Rave (Rep.)	+	-	-	+	+	+	-	+	-	+	60%
26	Sutton (D)	+	-	-	-	-	+	-	+	+	+	50%
27	Bradford (D)	-	-	-	-	+	+	-	+	?	+	44%
28	Maher (Rep.)	+	+	-	+	+	+	+	+	-	+	80%
29	Rhoden (Rep.)	+	-	-	+	-	+	+	+	-	+	60%
30	Rampelberg (Rep.)	+	-	-	+	-	+	+	+	-	+	60%
31	Nelson, T. (Rep.)	-	-	-	+	-	+	-	+	-	+	40%
32	Adelstein (Rep.)	-	-	-	+	-	+	+	+	-	+	50%
33	Kraus (Rep.)	+	-	-	+	-	+	+	+	-	+	60%
34	Tieszen (Rep.)	-	-	-	+	-	+	+	+	?	+	56%
35	Haverly (Rep.)	-	-	-	+	+	+	+	?	-	+	56%

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# SOUTH DAKOTA FREEDOM COALITION