



2021 South Dakota Legislature

House Bill 1259

SENATE ENGROSSED

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

Introduced by: **Representative Finck**

1 **An Act to make an appropriation for rural access infrastructure improvements and**
2 **to declare an emergency.**

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

4 **Section 1.** That a NEW SECTION be added:

5 **31-34-1. Definition.**

6 For the purposes of this Act, the term, small structure, means any small bridge or
7 culvert with an opening of sixteen square feet or more located on a township road or
8 county secondary road, excluding bridges as defined in § 31-14-1.

9 **Section 2.** That a NEW SECTION be added:

10 **31-34-2. Fund distribution by state--Inventory--Grants.**

11 Before August 1, 2021, the Department of Revenue shall distribute the sum of
12 three million dollars on a pro rata basis to each county for the purpose of planning and
13 completing an inventory of small structures as prescribed by the Department of
14 Transportation. Before August 1, 2022, the Department of Revenue shall distribute a
15 portion of the sum of three million dollars to each county based on the allocation calculated
16 in accordance with this section for the purposes described in § 31-34-3. Each county's
17 allocated percentage is calculated by using the total number of small structures on
18 township roads and county secondary roads located in a county divided by the sum of all
19 small structures on township roads and county secondary roads in the state as reported
20 to the Department of Transportation, multiplied by one hundred. Each county that receives
21 funds from this rural access infrastructure program shall use the funds in accordance with
22 the provisions of this Act.

23 **Section 3.** That a NEW SECTION be added:

1 **31-34-3. Distribution of funds by county--Permissible uses.**

2 Each county shall establish a rural access infrastructure fund for the deposit of
3 funds received pursuant to this Act. The funds shall be distributed by the board of county
4 commissioners for only the following expenses:

5 (1) Engineering, hydrological studies, planning, materials, and other costs as
6 necessary to plan for and complete the projects;

7 (2) Construction, rehabilitation, or replacement of small structures located in
8 townships complying with the requirements of this Act;

9 (3) Construction, rehabilitation, or replacement of small structures described in a
10 county highway and bridge improvement plan that are located on county secondary
11 highways.

12 The fund may not be used on no maintenance roads or minimum maintenance
13 roads.

14 **Section 4.** That a NEW SECTION be added:

15 **31-34-4. Application process.**

16 Applications for use of funds allocated pursuant to this Act shall be submitted to
17 the board of county commissioners on or before January fifteenth on forms prescribed by
18 the association of county commissioners. The board of county commissioners shall award
19 the funds no later than March fifteenth. Applications from townships shall be accompanied
20 by a resolution approved by the township board of supervisors authorizing the application
21 and any funding commitments made by the township. The township or county share shall
22 be a minimum of twenty percent of the funds necessary to complete the project.
23 Applications for county secondary highways shall be submitted by the county highway
24 superintendent.

25 **Section 5.** That a NEW SECTION be added:

26 **31-34-5. Criteria for award.**

27 The board of county commissioners shall, at a minimum, consider the following
28 criteria in awarding rural access infrastructure grants:

29 (1) Traffic use of the highway;

30 (2) Public safety;

31 (3) Residential, commercial, recreational, and other uses of the highway;

32 (4) Cost of the project;

33 (5) Length of detour if the project is not completed;

- 1 (6) Number of residences, farms, and ranches served by the project;
 2 (7) Contribution from township or others to the project and ability of township to fund
 3 the project without utilizing the rural access infrastructure fund;
 4 (8) Confirmation the project is not located on a no maintenance or minimum
 5 maintenance road;
 6 (9) Hydrological impact;
 7 (10) If the highway does not terminate into a field entrance, driveway, single residence,
 8 farm, or ranch;
 9 (11) The application, or group of applications, that best serves the citizens of this state;
 10 and
 11 (12) Any other matters deemed applicable by the board of county commissioners.
 12 The decisions of the county commissioner shall be final and nonappealable.
 13 However, a denied application may be submitted in a subsequent year.

14 **Section 6.** That a NEW SECTION be added:

15 **31-34-6. Township eligibility--Plan and annual report--Tax requirement.**

16 A requesting township shall timely file the township small structure improvement
 17 plan pursuant to § 31-34-7 with the county highway superintendent and an annual report
 18 pursuant to § 8-10-30 in order to be eligible for the funds. Any township requesting use
 19 of rural access infrastructure funds pursuant to this Act shall meet at least one of the
 20 following requirements:

- 21 (1) Impose an annual property tax levy of fifty cents per thousand pursuant to § 10-
 22 12-28.2; or
 23 (2) Impose a tax levy opt out pursuant to § 10-13-36.

24 **Section 7.** That a NEW SECTION be added:

25 **31-34-7. Township eligibility--Contents of plan--Updates.**

26 To be eligible to receive funding from the rural access infrastructure fund
 27 established under this Act, a township shall, each year by November fifteenth, submit to
 28 the county that township is located in, a township small structure improvement plan and
 29 any updates shall be made in accordance with this section. The township small structure
 30 improvement plan shall include:

- 31 (1) One or more maps showing the location of all small structures within the township;
 32 (2) The location, width, and length of each small structure;
 33 (3) A report on the condition of each small structure;

- 1 (4) Whether the small structure is posted for load capacity, and if so, what the posted
2 limit is;
3 (5) A list of all projects proposed to be undertaken by the township over the next five
4 years including the location of the project, type of project, source of funding for
5 the project, estimated cost of the project, and the year the project is proposed to
6 be completed; and
7 (6) Such additional items as may be prescribed by the Department of Transportation.

8 **Section 8.** That a NEW SECTION be added:

9 **31-34-8. County use of funds conditioned.**

10 The county commission may use rural access infrastructure funds for the
11 construction, rehabilitation, or replacement of small structures on county secondary
12 highways so long as such projects are considered in a similar manner as the small
13 structures that are located within an organized township.

14 **Section 9.** There is hereby appropriated from the general fund the sum of \$6,000,000 to the
15 Department of Revenue for the purpose of distribution to county rural access infrastructure
16 funds.

17 **Section 10.** The secretary of the Department of Revenue shall approve vouchers and the
18 state auditor shall draw warrants to pay expenditures authorized by this Act.

19 **Section 11.** Any amounts appropriated in this Act not lawfully expended or obligated shall
20 revert in accordance with the procedures prescribed in chapter 4-8.

21 **Section 12.** Whereas, this Act is necessary for the support of the state government and its
22 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in
23 full force and effect from and after its passage and approval.