

“We, the people of South Dakota, grateful to Almighty God for our civil and religious liberties....”

# THE SOUTH DAKOTA FREEDOM INDEX



“The prudent inquiry, in all cases, ought surely to be, not so much *from whom* the advice comes, as whether the advice be *good*.” [James Madison, *Federalist No. 40*]

How your state lawmakers voted on the "top ten" issues affecting your freedom. *This is our first look at the voting records of the South Dakota state Legislators who began their two-year terms in January of 2013. Subjects include the right to keep and bear arms, a federal Constitutional Convention, “economic development,” abortion, and freedom of speech.*

## South Dakota House Vote Scores (by district)

District	Name/ (Party)	% Score	Vote Number											
			1	2	3	4	5	6	7	8	9	10		
1	Wismer (D)	22%	+	?	+	-	-	-	-	-	-	-	-	-
1	Feickert (D)	60%	+	-	-	-	+	+	-	+	+	+	+	+
2	Greenfield (R)	80%	+	+	-	+	+	+	+	+	+	+	+	-
2	Tulson (R)	50%	+	-	-	+	+	+	-	+	-	-	-	-
3	Novstrup, D. (R)	50%	+	+	-	+	+	+	-	-	-	-	-	-
3	Kaiser (R)	100%	+	+	+	+	+	+	+	+	+	+	+	+
4	Peterson (D)	40%	+	-	+	-	+	-	+	-	-	-	-	-
4	Tyler (D)	20%	-	-	-	-	+	-	+	-	-	-	-	-
5	Solum (R)	60%	+	-	-	+	+	+	-	+	+	+	+	-
5	Magstadt (R)	50%	+	+	-	-	+	+	-	-	+	+	+	-
6	Otten, H. (R)	50%	+	+	-	-	+	+	-	+	-	-	-	-
6	Latterell (R)	80%	+	+	-	+	+	+	+	+	+	+	+	-
7	Munsterman (R)	44%	+	+	-	-	+	+	-	?	-	-	-	-
7	Hawley (D)	11%	+	?	-	-	-	-	-	-	-	-	-	-
8	Heinemann, L. (R)	57%	?	+	-	?	+	+	-	?	+	-	-	-
8	Parsley (D)	0%	-	-	-	-	-	-	-	-	-	-	-	-
9	Hickey (R)	50%	-	+	-	-	+	+	+	-	+	-	-	-
9	Hawks (D)	10%	-	-	+	-	-	-	-	-	-	-	-	-
10	Haggar, D. (R)	67%	+	?	-	+	+	+	-	+	+	+	+	-
10	Haggar, J. (R)	78%	?	+	-	+	+	+	+	+	+	+	+	-
11	Erickson (R)	50%	+	+	-	-	+	+	-	-	+	-	-	-
11	Stalzer (R)	80%	+	+	-	+	+	+	+	+	+	+	+	-
12	Wick (R)	70%	+	+	-	+	+	+	+	-	+	-	-	-
12	Steele (R)	70%	+	+	-	+	+	+	+	-	+	-	-	-
13	Mickelson (R)	50%	+	?	-	?	+	+	-	+	-	-	-	-
13	Westra (R)	60%	+	+	-	+	+	+	-	+	-	-	-	-
14	Hajek (R)	30%	+	+	-	-	+	-	-	-	-	-	-	-
14	Feinstein (D)	20%	-	-	+	-	-	-	-	-	-	-	-	+
15	Kirschman (D)	56%	+	-	+	-	+	+	?	-	+	-	-	-
15	Soli (D)	10%	-	-	-	-	-	-	+	-	-	-	-	-
16	Miller (R)	56%	+	+	-	-	+	+	?	-	+	-	-	-
16	Bolin (R)	44%	+	?	-	-	+	+	-	-	+	-	-	-
17	Rasmussen (R)	60%	+	+	-	-	+	+	+	+	+	+	+	-
17	Ring (D)	20%	-	-	+	-	+	-	-	-	-	-	-	-
18	Stevens (R)	33%	+	+	-	-	+	?	-	-	-	-	-	-

District	Name/ (Party)	% Score	Vote Number											
			1	2	3	4	5	6	7	8	9	10		
18	Hunhoff, B. (D)	20%	+	-	-	-	+	-	-	-	-	-	-	-
19	Nelson, S. (R)	80%	+	+	-	+	+	+	+	-	+	+	+	+
19	Schoenfish (R)	50%	+	+	-	-	+	+	+	-	-	-	-	-
20	Rozum (R)	50%	+	+	-	-	+	+	-	+	-	-	-	-
20	Carson (R)	57%	+	?	?	?	+	+	-	+	-	-	-	-
21	Bartling (D)	20%	+	-	-	-	+	-	-	-	-	-	-	-
21	Qualm (R)	80%	+	+	-	+	+	+	+	+	+	+	+	-
22	Werner (R)	44%	+	?	-	-	+	+	-	+	-	-	-	-
22	Gibson (D)	0%	-	-	-	-	-	-	-	-	-	-	-	-
23	Hoffman (R)	50%	+	+	-	-	+	+	-	-	+	+	-	-
23	Cronin (R)	56%	+	+	-	+	+	+	-	-	?	-	-	-
24	Duvall (R)	50%	+	+	-	-	+	+	-	+	-	+	-	-
24	Rounds (R)	70%	+	+	-	+	+	+	-	+	+	+	+	-
25	Ecklund (R)	60%	+	+	-	-	+	+	+	-	+	-	+	-
25	Hansen, J. (R)	60%	+	+	-	+	+	+	-	-	+	-	+	-
26A	Heinert (D)	0%	-	-	-	-	-	-	-	-	-	-	?	?
26B	Schaefer (R)	50%	+	-	-	-	+	+	-	+	+	+	+	-
27	Killer (D)	0%	-	-	-	-	-	-	-	-	-	-	-	-
27	May (R)	80%	+	+	-	+	+	+	+	+	+	+	+	-
28A	Schrempp (D)	11%	-	-	+	-	-	-	-	-	-	?	-	-
28B	Olson, B. (R)	80%	+	+	-	+	+	+	+	+	+	+	+	-
29	Wink (R)	44%	+	?	-	-	+	+	-	-	+	-	-	-
29	Cammack (R)	60%	+	+	-	-	+	+	-	+	+	+	+	-
30	Verchio (R)	80%	+	+	-	+	+	+	+	+	+	+	+	-
30	Russell (R)	90%	+	+	-	+	+	+	+	+	+	+	+	+
31	Johns (R)	30%	+	-	-	-	+	+	-	-	-	-	-	-
31	Romkema (R)	33%	+	?	-	-	+	+	-	-	-	-	-	-
32	Gosch (R)	70%	+	+	-	+	+	+	-	+	+	+	+	-
32	Conzet (R)	50%	+	+	-	-	+	+	-	+	-	+	-	-
33	Sly (R)	40%	+	+	-	-	+	+	-	-	-	-	-	-
33	Craig (R)	60%	+	+	-	-	+	+	+	+	-	+	-	-
34	Lust (R)	50%	+	+	-	-	+	+	-	+	-	-	+	-
34	Dryden (R)	33%	+	?	-	-	+	+	-	-	-	-	-	-
35	Campbell (R)	90%	+	+	-	+	+	+	+	+	+	+	+	+
35	Kopp (R)	75%	+	?	-	?	+	+	+	+	+	+	+	-

SD House 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 2 and 3.

To find your state legislators, visit <http://legis.state.sd.us/who/index.aspx> or call (605)-773-3251

# In This Index

The average House score for this Index (votes 1-10) is 49%. The average Senate score is 59%. Rep. Kaiser (R-Aberdeen) was the only House member to score 100%, followed by Representatives Campbell (R-Rapid City) and Russell (R-Hot Springs) at 90%. Senators Rhoden (R-Union Center) and Jensen (R-Rapid City) topped the Senate scores at 90% and 89%, respectively. We encourage readers to examine how their own legislators voted on each measure listed 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 2013. Our next report will cover the 2014 legislative ses-

## SD House Vote Descriptions

**1 Keystone XL Pipeline** Rep. Bolin introduced HCR 1006 to petition the President of the United States to approve the planned Keystone XL oil pipeline without delay. The resolution points out the economic benefits to America of reducing our dependence on unfriendly nations for our oil, the need to create jobs and to provide much-needed tax revenue to SD, much of which will be funneled to local governments and schools. But the primary concern is that Canada will ship this oil to Asia if the project is not approved. The House approved HCR 1006 by a vote of 57-11 on Feb. 12, 2013; the Senate approved it 30-3 two days later. We have assigned pluses to the yeas because the federal government should allow entrepreneurs to develop energy resources, rather than deny access.

**2 School Sentinels** HB 1087, often called the “School Sentinel Bill,” was introduced by Rep. Craig and sought to address mass shootings in public schools. By federal law, public schools are designated “Gun-Free Zones” where the disarmed become easy targets for such attacks. The Sentinel bill permits local school boards, under certain criteria, to designate properly-vetted, trained and armed volunteer

school staff members as “school sentinels” to provide immediate security for the defenseless.

It passed 21-14 in the Senate on Feb. 27<sup>th</sup>, 2013 and then passed the House 40-19 on March 5th. While the bill was not ideal respecting the people's right to keep and bear arms, we gave pluses to the yeas because it moves the state toward fully protecting the right and addresses the glaring omission of security inherent in the “Gun-Free Zones.”

**3 Freedom of Speech, Press** Senator Kirkeby introduced SB 200, a bill to criminalize anonymous political communication. Previously, state law mandated anyone spending \$1000 or more on political communications, especially within 60 days of an election, to register with the SD Secretary of State and/or publish a disclaimer with the political communication. SB 200 changed the threshold on expenditures to \$100 or more (including any in-kind donations) any day of the year. Violation is a misdemeanor. Political surveys and periodicals such as newspapers are exempt.

The SD Bill of Rights says, “Every person may freely [communicate] on all subjects.” The United States would likely have never become a nation nor rati-fied its Constitution without the use of anonymous political communication. Still, laws against slander and libel were enforced. Bills such as SB 200 tend to be used to silence political enemies through regulation, threats, and lawsuits. It passed the House 61-8 on Mar. 5, 2013 and passed the Senate 34-0 two days later. We have assigned pluses to the nays.

**4 Texting and Driving** The Senate Transportation Committee introduced SB 106 to prohibit minors from using wireless communication devices while driving on public highways. It passed the House 43-23 on Mar. 4, 2013 and passed the Senate 23-10 two days later. We have assigned pluses to the nays because the enforcement of such a law is extremely difficult without resorting to intrusive, expensive, and arbitrary

methods common to societies which regularly violate the inherent rights of the individual. Distracted driving is already covered in existing statutes.

**5 Overturning *Roe v. Wade*** Rep. Bolin introduced HCR 1002, urging the US Supreme Court to revisit the 1973 *Roe v. Wade* case and overturn its decision. This would allow each state to decide whether to criminalize abortion as was the case previously. The resolution notes that Justice White, a dissenter in the case, described the ruling as “an exercise of raw judicial power” which overturned the states’ existing criminal statutes outlawing abortion. Citing advancements in prenatal photography over the last forty years clearly showing the humanity of the unborn, it also pointed to Norma McCorvey, plaintiff in the case, who now repudiates and regrets her involvement. While it would have been better had the resolution encouraged Congress to use its power to limit the Supreme Court’s appellate jurisdiction regarding abortion, this resolution shows the clear constitutional divide on the issue of life in South Dakota. It passed the House 60-10 on Jan. 23<sup>rd</sup>, 2013 and the Senate 23-10 on Jan. 28<sup>th</sup>. We have assigned pluses to the yeas.

**6 United Nations Agenda 21** Rep. Stalzer introduced HCR 1008 urging all state agencies as well as local governments to reject any and all measures to implement Agenda 21 or any of its provisions. Noting that Agenda 21 seeks to implement “extreme environmentalism, social engineering, and global political control,” the state legislature warned all government entities to “be well informed of the underlying harmful implications of implementation of United Nations Agenda 21 destructive strategies for ‘sustainable development,’ and ...[endorsed] rejection of its radical policies and ... of any grant monies attached to it.” It passed the House 53-16 on Feb. 26, 2013 and the Senate 31-2 on Feb. 28th. We have assigned pluses to the yeas.

**7 Federal Gun Control Nullification** Rep. Nelson introduced HB 1222, which would make null and

void within South Dakota unconstitutional Federal gun control legislation. It builds on a similar bill passed in 2010 but adds penalties, specific prohibitions, and allows the state Attorney General to defend South Dakotans accused of federal firearms law violations. The 2nd Amendment to the U.S Constitution says "the right of the people to keep and bear arms shall not be infringed." This bill reaffirms that right by also nullify-ing any Federal laws that "[b]an or restrict ownership of a firearm or any magazine of a firearm" or "[r]equire any firearm, magazine, or other firearm accessory to be registered in any manner."

The House State Affairs Committee chose not to refer HB 1222 to the full House for debate. On Feb. 14th, 2013, Rep. Nelson tried to bring the bill before the full House for debate. The move required one-third (24) of the members to agree, but it was narrowly defeated 23-45. We have assigned plusses to the yeas because the right to keep and bear arms secures the means to protect all other rights.

**8 Prenatal Care for Illegals** Rep. Hunhoff introduced HB 1214 as a way to provide "medical care for certain unborn children." This bill would create a "separate health assistance program" to care for the unborn of non-citizens. It would have spent state and federal funds by expanding the unconstitutional and fiscally shaky Medicaid program; it would further transfer the burden of caring for the poor from private charities to the government, which generates other problems. It also lacked any specific appropriation of funds for an ongoing expenditure which would run at least hundreds of thousands of dollars per year. The bill passed the House 39-28 on Feb. 22, 2013 but ultimately died when the House and Senate were unable to reconcile their different versions. We assigned plusses to the nays because the bill would be an additional magnet for illegals and lead to more abuse of the system via births to children deemed US citizens.

**9 Common Core Standards** Rep. Bolin introduced HB 1204 to

require legislative approval before the state expands the number of subjects it requires SD public school districts to instruct according to the Common Core State Standards Initiative. In 2010, the South Dakota Board of Education approved the implementation of Common Core standards in our states schools for English Language Arts and Mathematics in order to qualify for federal "Race to the Top" grants. Much about the Standards was unknown at that time, but as more is revealed about what they entail, concern has grown. The House approved HB 1204 by a vote of 36-32 on Feb. 20, 2013 but it later died in the Senate Education Committee. We assigned plusses to the yeas because the federal government has no constitutional authority to be involved in education.

**10 Economic Development** Rep. Scott Munsterman introduced HB 1161 to provide tax breaks to certain businesses which "create new jobs and promote economic activity." A similar law was defeated by a referendum at the 2012 general election. While tax incentives to create jobs seem like a good idea, this bill contains several criteria which are selective as to who qualifies to gets these incentives. Article III, Section 23 (#9) and Article VI, Section 18 in the SD State Constitution both stipulate that no law shall be passed granting special privileges to certain citizens or corporations not equally belonging to all citizens or corporations. A better approach would be to keep all taxes low to encourage economic activity, whether agricultural or not. The bill passed the House 63-6 on Feb. 20, 2013 but was later tabled (killed). We have assigned plusses to nays because the proper role of government in a free market is not to grant special favors.

### SD Senate Vote Descriptions

**1 Keystone XL Pipeline** See House Vote #1. Plusses to the yeas.

**2 School Sentinels** See House Vote #2. Plusses to the yeas.

**3 Freedom of Speech, Press** (See House vote #3 for details) Plusses to the nays.

**4 Texting and Driving** See House vote #4. Plusses to the nays.

**5 Overturning Roe v. Wade** See House vote #5. Plusses to the yeas.

**6 United Nations Agenda 21** See House vote #6. Plusses to the yeas.

**7 Right to Keep and Bear Arms** Senator Rhoden introduced SB 207 to "make certain legislative findings concerning federal infringement on Second Amendment rights." The bill states that "we can neither identify any means nor rationalize any legal theory that the Second Amendment ... does not effectively foreclose any and all federal initiatives directed at the restriction of gun ownership and the right of self defense." It also directed the SD Attorney General to proactively defend South Dakotans from any attacks on Second Amendment rights. It passed the Senate 29-4 on Feb. 20, 2013 but later failed in the House State Affairs Committee. We have assigned plusses to the yeas...

## The South Dakota Freedom Index

is a project of the South Dakota Freedom Coalition, a committee of concerned South Dakotans. 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 legislator voted, find him or her in the appropriate vote chart.

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because although this bill is mostly a position statement, it states, most importantly, that the 2<sup>nd</sup> Amendment is a direct and explicit prohibition concerning measures which effectively discourage private ownership and use of firearms.

**8 Abortion Counseling Waiting Period Clarified** In 2011 the Legislature passed a law requiring any woman considering aborting her unborn child to wait 72 hours, during which time she would receive counseling at a pregnancy care center. Representative Hansen introduced HB 1237 to exclude weekends and holidays from the waiting period because these centers are often not open then. While abortion is still a heinous crime against the unborn child, this bill guarantees the mother will have three business days to receive counseling before she can sign a consent form for prenatal infanticide in the presence of a qualified physician.

The Senate passed this bill 24-9 on Feb. 28, 2013. The House had passed it 8

days earlier. We have assigned pluses to the yeas because securing the God-given right to life as guaranteed in both the state and federal constitutions is essential for any freedom. This law will likely allow more mothers to ponder the implications of aborting their unborn children.

**9 Expanding Medicaid** After HB 1214 passed in the House (See House vote #8), the wording was replaced in the Senate Health and Human Services Committee by an amendment proposed by Senator Soholt. This bill proposed simply expanding the federal Medicaid program in South Dakota to cover prenatal care for those who are at 140% or less of the federal “poverty” level, although discussion indicated the intent was to also cover illegal immigrants. Cost: over \$1 Million in state and federal funds. The Senate version passed 30-4 on March 5, 2013. We gave plusses to the yeas because Medicaid is unconstitutional in the first place; with a national debt of nearly \$17 Trillion, this is money we simply do not have.

**10 Federal Constitutional Convention** Senator Lederman introduced SCR 4 formally asking the US Congress to call a “limited” Constitutional Convention for an amendment requiring any increase in the federal debt to have approval from a majority of the fifty state legislatures. The dangers of calling for an Article V “Con-Con” are numerous. Even though some legislators believe they can limit such a convention to a single topic, the only precedent we now have is the original Convention of 1787. Once called, the delegates discarded our nation’s first constitution and adopted our present one. Among other things, there is longstanding and widespread disagreement among scholars as to whether such a convention could be limited to a single topic or list of topics. The Senate soundly rejected the resolution on March 5, 2013 by a vote of 7-27. We have assigned plusses to the yeas because the federal debt is a problem which resulted from ignoring constitutional restraints on spending; changing the Constitution will not solve this.

## South Dakota Senate Vote Scores (by district)

District	Name/(Party)	% Score	Vote Number									
			1	2	3	4	5	6	7	8	9	10
1	Frerichs (D)	56%	+	-	-	-	+	+	+	?	-	+
2	Welke (D)	40%	+	-	-	-	-	+	+	-	-	+
3	Novstrup, A. (R)	60%	+	+	-	-	+	+	+	+	-	-
4	Begalka (R)	70%	+	+	-	-	+	+	+	+	-	+
5	Holien (R)	60%	+	-	-	+	+	+	+	+	-	-
6	Otten, E. (R)	80%	+	+	-	-	+	+	+	+	+	+
7	Tidemann (R)	40%	+	-	-	-	-	+	+	-	-	+
8	Olson, R. (R)	70%	+	+	-	-	+	+	+	+	-	+
9	Peters (R)	80%	+	+	-	+	+	+	+	+	-	+
10	Krebs (R)	67%	+	+	-	-	+	+	?	+	-	+
11	Omdahl (R)	70%	+	+	-	+	+	+	+	+	-	-
12	Johnston (R)	50%	+	-	-	-	+	+	+	+	-	-
13	Heineman, P. (R)	60%	+	+	-	-	+	+	+	+	-	-
14	Soholt (R)	50%	+	+	-	-	-	+	+	-	-	+
15	Buhl O'Donnell (D)	0%	-	-	-	?	?	?	-	-	?	?
16	Lederman (R)	60%	+	+	-	-	+	+	+	+	-	-
17	Jones (D)	44%	+	-	?	-	-	+	+	-	-	+

District	Name/(Party)	% Score	Vote Number									
			1	2	3	4	5	6	7	8	9	10
18	Hunhoff, J. (R)	56%	+	-	-	-	?	+	+	+	-	+
19	Van Gerpen (R)	75%	?	+	-	+	+	+	?	+	-	+
20	Vehle (R)	56%	+	+	-	-	-	?	+	+	-	+
21	Sutton (D)	56%	+	-	-	-	+	+	+	?	-	+
22	White (R)	60%	+	-	-	-	+	+	+	+	-	+
23	Brown (R)	70%	+	-	-	+	+	+	+	+	-	+
24	Monroe (R)	70%	+	+	-	-	+	+	+	+	-	+
25	Rave (R)	78%	?	+	-	+	+	+	+	+	-	+
26	Lucas (D)	20%	-	-	-	+	-	-	-	-	-	+
27	Bradford (D)	20%	-	-	-	+	-	-	-	-	-	+
28	Maher (R)	70%	+	+	-	+	+	+	+	+	-	-
29	Rhoden (R)	90%	+	+	-	+	+	+	+	+	+	+
30	Rampelberg (R)	80%	+	+	-	-	+	+	+	+	+	+
31	Ewing (R)	60%	+	-	-	-	+	+	+	+	-	+
32	Adelstein (R)	40%	+	+	-	-	-	+	-	-	-	+
33	Jensen (R)	89%	+	+	-	?	+	+	+	+	+	+
34	Tieszzen (R)	50%	+	+	-	-	-	+	+	-	-	+
35	Kirkeby (R)	60%	+	+	-	-	-	+	+	+	-	+

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