
DIVISION OF BANKING

1714 Lincoln Avenue, Suite 2, Pierre, SD 57501
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MEMORANDUM

NUMBER: 20-036
DATE: June 1, 2026
TO: SOUTH DAKOTA TRUST COMPANIES
FROM: BRET AFDAHL, Director
RE: NEW TRUST LEGISLATION

The following is a summary of Senate Bill 100 (SB 100). SB 100 was introduced by the Senate Commerce and Energy Committee on behalf of the Governor's Trust Task Force and signed into law by Governor Larry Rhoden. SB 100 will become effective on July 1, 2026. I would encourage you to review SB 100 in detail at your convenience at the following link: [2026 Senate Bill 100 - SD Legislature revise provisions related to trusts.](#)

If you would like additional information regarding SB 100, or if you have any questions, please do not hesitate to contact the South Dakota Division of Banking at 605-773-3421.

Senate Bill 100

This bill contains updates to South Dakota trust law in an effort to keep South Dakota trust law up to date and leading the nation.

SB 100 includes eight sections:

- Section 1 – In response to IRS-issued guidance on the subject, SB 100 creates a new statute to give trustees discretion to reimburse trustors for income taxes attributable to the income of trusts, by either reimbursement to trustors or payment directly to the taxing authority, unless the trusts expressly state otherwise.
- Section 2 – SB 100 corrects and clarifies a cross reference to other sections of the South Dakota trust code and adds trust terminations to the paragraph which distinguishes trust reformations from the decanting authority provided in this section.
- Section 3 – South Dakota probate code provides statutory guidance to fiduciaries regarding when transfers of property are considered an advancement of a devisee's inheritance. SB 100 takes that same concept and creates a new statute to apply this same concept to trusts.
- Section 4 – South Dakota law provides that trustees can be removed or denied compensation if they violate any provision of the SDCL Chapter 55-4. SB 100 clarifies that trustees remain entitled to compensation until a court orders cessation of fees and expenses.
- Section 5 and 6: Members of the Governor's Trust Task Force have worked with attorneys across South Dakota, as well as the Chief Justice of the South Dakota

Supreme Court, to develop statutes that clearly state the law related to attorney-client privilege in the trust context, and to clarify that the privilege is with the trust fiduciary, not the beneficiaries.

- Section 7 – SB 100 restructures the text of SDCL § 55-16-10 to clarify the intent and application of the statute. SB 100 is not intended to change the intent or substance of SDCL § 55-16-10.
- Section 8 – SB 100 makes clarifying revisions to the law applicable to South Dakota community property trusts.